FEDERAL REGISTER

VOLUME 18 NUMBER 183

Washington, Friday, September 18, 1953

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter III—Foreign and Territorial Compensation

Subchapter B—The Secretary of State

[Dept. Reg. 108.193]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

DESIGNATION OF DIFFERENTIAL POSTS

SEPTEMBER 5, 1953.

Section 325.11 *Designation of differential posts* is amended as follows, effective as of the beginning of the first pay period following September 12, 1953:

1. Paragraph (a) is amended by the deletion of the following posts:

Calcutta, India.
Djakarta, Indonesia.
Madras, India.
Medan, Indonesia.
New Delhi, India.
Surabaya, Indonesia.

2. Paragraph (b) is amended by the deletion of the following posts:

India, all posts except Bangalore, Bhopal, Bombay, Calcutta, Cuddalore, Cuttack, Gwalior, Hirakud Dam, Hyderabad, Izatnagar, Kharagpur, Lucknow, Madras, Nabha, Nagpur, New Delhi, Nilokheri, Patiala, Patna, Poona, Shillong, Simla and Trivandrum.
Philippines, all posts except Angeles, Baguio City, Cavite (including Sangley Point), Davao, Laoag, Legaspi, Manila and Tuguegarao.

3. Paragraph (c) is amended by the deletion of the following posts:

Bombay, India.
Shillong, India.

4. Paragraph (a) is amended by the addition of the following posts:

Bayombong, Philippines.
Bokaro, India.
Divisa, Panama.
Santa Cruz, Bolivia.

5. Paragraph (b) is amended by the addition of the following posts:

Djakarta, Indonesia.
India, all posts except Bangalore, Bhopal, Bokaro, Bombay, Cuddalore, Cuttack, Gwalior, Hirakud Dam, Hyderabad, Izatnagar, Kharagpur, Lucknow, Madras, Nabha, Nagpur, New Delhi, Nilokheri, Patiala, Patna, Poona, Simla, and Trivandrum.
Nedan, Indonesia.
Philippines, all posts except Angeles, Baguio City, Bayombong, Cavite (including Sangley Point), Davao, Laoag, Legaspi, Manila and Tuguegarao.
Surabaya, Indonesia.

6. Paragraph (c) is amended by the addition of the following posts:

Madras, India.
New Delhi, India.

7. Paragraph (d) is amended by the addition of the following post:

Bombay, India.

(E. O. 10000, 13 F. R. 5543; 3 CFR, 1948)

For the Secretary of State.

DONALD B. LOURIE,
Under Secretary for Administration.

SEPTEMBER 5, 1953.

[F. R. Doc. 53-8070; Filed, Sept. 17, 1953; 8:49 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Export and Diversion Programs

[Amdt. 3]

PART 517—FRUITS AND BERRIES, FRESH

SUBPART—ORANGE EXPORT PAYMENT PROGRAM TMX 135a (FISCAL YEAR 1953)

ELIGIBLE PRODUCTS AND RATE OF PAYMENT

The table in § 517.377 is hereby revised to add the following:

Eligible products	Unit	Rate
Canned single-strength orange juice.	Net gallon, in containers smaller than No. 2 cans.	$0.20

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Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

Effective date. This amendment shall become effective at 12:01 a. m., e. d. t., September 18, 1953.

(Sec. 32, 49 Stat. 774, as amended; 7 U. S. C. Sup. 612c)

Dated this 15th day of September 1953.

[SEAL] S. R. SMITH,
Authorized Representative of the Secretary of Agriculture.

[F. R. Doc. 53-8079; Filed, Sept. 17, 1953; 8:52 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 55—SAMPLING, GRADING, GRADE LABELING, AND SUPERVISION OF PACKAGING OF EGGS, AND EGG PRODUCTS

SUBPART C—SANITATION, FACILITIES, AND OPERATING PROCEDURES

MINIMUM REQUIREMENTS FOR SANITATION, FACILITIES, AND OPERATING PROCEDURES IN OFFICIAL PLANTS PROCESSING AND PACKAGING EGG PRODUCTS

A notice of the proposed issuance of minimum requirements for sanitation, facilities, and operating procedures in official plants processing and packaging egg products, pursuant to the regulations governing the sampling, grading, grade labeling, and supervision of packaging of eggs and egg products (7 CFR Part 55) was published in the FEDERAL REGISTER on June 27, 1953 (18 F. R. 3690) This program is effective pursuant to the Department of Agriculture Appropriation Act (Pub. Law 156, 83d Cong. approved July 28, 1953)

These minimum requirements specify the facilities, including the building, processing rooms, and equipment necessary for plant approval; set forth the breaking procedures relating to such matters as the selection of breaking stock, breaking, liquid cooling, and the freezing and drying of the product; and establish sanitary standards to be met during processing and packaging. The provisions contained herein are quite similar to the operating procedures, facilities, and sanitary requirements which heretofore have been applicable to egg products processing under the egg products inspection program and are understood by the egg products industry generally.

After consideration of all relevant matters presented including the proposals set forth in the aforesaid notice the minimum requirements for sanitation, facilities, and operating procedures in official plants processing and packaging egg products hereinafter set forth are promulgated to become effective 30 days following publication in the FEDERAL REGISTER.

In contemplation of recodification of portions of Part 55 the following is codified as Subpart C beginning with § 55.200 instead of § 55.103 as set forth in the notice of rule making (18 F. R. 3690)

Sec.
55.200 Plant requirements.
55.201 Shell egg storage rooms.
55.202 Candling room facilities.
55.203 Candling room operations.
55.204 Egg washing area.
55.205 Egg washing operations.
55.206 Breaking room facilities.
55.207 Breaking room operations.
55.208 Liquid egg cooling facilities.
55.209 Liquid cooling operations.
55.210 Liquid egg holding.
55.211 Freezing facilities.
55.212 Freezing operations.
55.213 Defrosting facilities.
55.214 Defrosting operations.
55.215 Spray process drying facilities.
55.216 Spray process drying operations.
55.217 Spray process powder; definitions and requirements.
55.218 Albumen flake process drying facilities.
55.219 Albumen flake process drying operations.
55.221 Dried egg storage.
55.222 Washing and sanitizing room or area facilities.
55.223 Washing and sanitizing requirements.
55.224 Health and hygiene of personnel.
55.225 Pasteurization of liquid whole eggs.
55.226 Stabilized (acidified) dried whole eggs
55.227 Gas packing dried whole eggs.
55.228 Equipment construction.

AUTHORITY: §§ 55.200 to 55.228 issued under 67 Stat. 217.

§ 55.200 *Plant requirements.* (a) The plant shall be free from strong foul odors, dust, and smoke-laden air.

(b) The premises shall be free from refuse, rubbish, waste, and other materials and conditions which constitute a source of odors or a harbor for insects, rodents, and other vermin.

(c) The buildings shall be of sound construction and kept in good repair, such as to prevent the entrance or harboring of vermin.

(d) Rooms shall be kept free from refuse, rubbish, waste materials, odors, insects, rodents, and from any conditions which may constitute a source of odors or engender insects and rodents. Materials and equipment not currently needed shall be handled or stored in a manner so as not to constitute a sanitary hazard.

(e) Doors and windows that open to the outside shall be protected against the entrance of flies and other insects. Doors and windows serving rooms where edible product is exposed shall be adequately protected against the entrance of dust and dirt. All doors leading into rooms where edible product is processed shall be of solid construction and other than freezer and cooler doors, shall be fitted with self-closing devices.

(f) Doors and other openings which are accessible to rodents shall be of rodent-proof construction.

(g) There shall be an efficient drainage and plumbing system for the plant and premises. All drains and gutters shall be properly installed with approved traps and vents. The sewerage system shall have adequate slope and capacity to remove readily all waste from the various processing operations. All floor drains shall be equipped with traps, and constructed so as to minimize clogging.

§ 55.201 *Shell egg storage rooms.* (a) Storage rooms, either on or off the premises, shall be capable of pre-cooling all shell eggs to meet the temperature requirements (as set forth in § 55.209) for liquid eggs at time of breaking.

(b) Storage rooms shall be kept clean and free from objectionable odors and mold growth.

§ 55.202 *Candling room facilities.* (a) The room shall be adequately darkened and the equipment arranged so as to permit frequent removal of refuse, such as inedible or loss eggs, excess packing material, and trash.

(b) The construction of the floor shall allow thorough cleaning. In new construction the floors shall be of water-resistant composition and provided with proper drainage.

(c) Ventilation shall be such as to provide for the rapid removal of objectionable odors and dust, preferably by means of an exhaust fan.

(d) Candling devices of an approved type shall be provided to enable candlers to detect inedible, dirty, checked eggs, and eggs other than hen eggs.

(e) Suitable metal containers shall be provided for edible leakers.

(f) Suitable metal containers shall be provided for inedible eggs and such containers shall be conspicuously marked.

(g) Suitable metal containers shall be provided for trash.

(h) Shell egg conveyors shall be constructed so that they can be thoroughly cleaned.

§ 55.203 *Candling room operations.* (a) Candling rooms shall be kept clean, free from cobwebs, dust, objectionable odors, and excess packing material.

(b) Candling room floors and benches shall be thoroughly cleaned daily.

(c) Wooden spools on mechanical candling machines shall be maintained in a clean and dry condition during operation.

(d) Containers for trash and inedible eggs shall be removed from the candling room as often as necessary but at least once daily and shall be washed or rinsed after each use and shall be washed, rinsed, and disinfected at the end of each shift.

(e) Duck, turkey, guinea, and goose eggs shall be segregated and if processed they shall be processed separately from eggs to be identified with the inspection mark.

(f) Shell eggs received in cases having strong odors such as kerosene, gasoline, or other odors of a volatile nature, shall be candled and broken separately to determine their acceptability for egg meat purposes and each container of the resultant frozen product shall be drilled and examined organoleptically.

(g) The shell eggs shall be sorted and classified as edible, dirty, leakers, eggs from other than chickens, or loss, in a manner approved by the National Supervisor.

(1) All edible eggs shall be carefully placed on conveyors or into containers and handled in a manner which will minimize breakage.

(2) Eggs shall be handled in a manner to minimize sweating prior to breaking.

(3) Leakers and checks which are liable to be smashed in the shell egg containers or on the conveyor belt shall be placed into trays (not more than one per cell) and shall be transferred promptly to the breaking room to be broken by specially trained personnel.

(4) All shell eggs with adhering dirt shall be placed into separate containers or onto conveyors to egg washers.

(5) When egg products are to be produced from edible leakers, checks with adhering dirt, sound shell eggs with adhering dirt, or from eggs other than of current production, such breaking stock

shall be properly segregated from other breaking stock.

(6) All loss or inedible eggs, including black, white or mixed rots, green or bloody whites, stuck yolks, moldy eggs, developed embryos at or beyond the blood ring stage, and any other eggs which are filthy or decomposed, shall be placed in a designated container and be handled as required in § 55.102 (d)

§ 55.204 *Egg washing area.* (a) The egg washing room or area shall be separated from the breaking, drying, and sanitizing rooms. It shall be well-lighted and the floor shall be of water-proof composition and shall be constructed to allow thorough cleaning and adequate drainage. Ventilation, preferably by means of an exhaust fan, shall provide for the removal of objectionable vapors and odors.

(b) Either hand or mechanical egg washing equipment that has been approved by the National Supervisor, shall be provided.

§ 55.205 *Egg washing operations.* (a) Temperature of the wash water for dirties shall be at least 20° F higher than the temperature of the eggs to be washed.

(b) Shell eggs with adhering dirt shall be washed, rinsed with a water spray and immersed in or sprayed with a bactericidal solution and immediately dried in a manner approved by the National Supervisor.

(c) Shell eggs shall not be washed in the breaking or sanitizing rooms or any room where edible products are processed.

(d) Washed eggs shall be immediately broken after they are dried except that such eggs may be precooled prior to breaking to facilitate separating operations, but such precooled eggs shall be broken within 24 hours after they are washed.

§ 55.206 *Breaking room facilities.* (a) The breaking room shall have at least 10 foot candles of light on all working surfaces except the light intensity shall be at least 50 foot candles at breaking tables and inspection tables.

(b) The surface of the ceiling and walls shall be smooth and made of a tile, plaster, or other water-resistant material.

(c) The floor shall be of water-proof composition and reasonably free from cracks or rough surfaces, and intersections with walls and curbing shall be impervious to water with ample drainage provided.

(d) Ventilation shall provide for:

(1) Sufficient input of relatively odorless filtered air to cause a positive flow of air into the room;

(2) Sufficient exhaust to cause a prompt and continuous removal of objectionable odors; and

(3) Warm room air of suitable working temperature when rooms are operated during cold weather.

(e) There shall be provided adequate hand washing facilities, an adequate supply of potable warm water, paper towels, odorless soap, and metal containers for used towels. Hand washing facilities shall be operated by other than hand operated controls.

(f) Tables and receiving shelves shall be of approved metal construction and surfaces thereof shall be smooth and without open seams. Metal covered wooden tables are not acceptable.

(g) Conveyors for liquid-egg containers shall be so constructed as will prevent entrance of grease, dust, or other contaminants into the liquid eggs.

(h) Conveyors for shell eggs shall be so constructed as will permit them to be cleaned continuously while in operation. Shell egg conveyors of non-metallic belt type shall be of water-proof composition and so constructed as will permit them to be rinsed or sprayed and squeegeed continuously while in operation.

(i) Overhead conveyors which are used exclusively for carrying shell eggs, shall be so installed as will prevent egg meat which is being conveyed or is on the breaking table from being contaminated.

(j) Trays, racks, knives, cups, separators, spoons, buckets, dump tanks, churns, draw-off tanks, pumps, valves, and liquid-egg lines shall be of approved construction.

(k) All liquid-egg containers, including cups and buckets, shall be free from leaks and excessive dents, rust spots, and seams which make cleaning difficult.

(l) Frozen egg cans are not acceptable as liquid-egg buckets, but may be used, however, as temporary operational containers for liquid eggs prepared as provided in § 55.102 (d) (2)

(m) A metal inspection table shall be provided for the examination of questionable egg liquid. A suitably covered container bearing an identifying mark shall be placed near the inspection table for disposal of rejected egg liquid.

(n) Strainers, settling tanks, or centrifugal clarifiers of approved construction shall be provided for the effective removal of shell particles, and foreign material, unless specific approval is obtained from the National Supervisor for other mechanical devices.

(o) Separate churn or draw-off rooms, if provided, shall meet requirements that are comparable to those listed under this section.

(p) In the processing of whole eggs or albumen, hashers may be used when preceded by an approved settling tank, strainer, or followed by a centrifugal clarifier.

§ 55.207 *Breaking room operations.* (a) The breaking room shall be kept in a dust-free clean condition and free from flies, insects, and rodents. The floor shall be kept clean and reasonably dry during breaking operations and free of egg meat and shells.

(b) Shell egg containers coming into the breaking room shall be so handled that they do not pass directly over or come in contact with liquid egg, liquid-egg containers, or drip trays.

(c) Belt type shell egg conveyors shall be continuously sprayed while in operation with clean, cool water, and squeegeed. Wooden spool shell egg conveyors shall be kept dry and reasonably clean during operations.

(d) All breaking room personnel shall wash their hands thoroughly with odorless soap and water each time they enter the breaking room and prior to receiving clean equipment after breaking an inedible egg. Perfumes and nail polish shall not be used by breakers.

(e) Paper towels or tissues shall be used at breaking tables but shall not be re-used; cloth towels are not permitted.

(f) Breakers shall take a complete set of clean cups, knives, chutes, racks, trays, separators, and spoons, when starting work and after lunch periods. (All table equipment shall be rotated with clean equipment every 2 hours.)

(g) When cups are used, not more than three eggs (when separating, not more than six yolks) shall be broken into one cup; if cups are small not more than two eggs (when separating, four yolks) shall be broken into each cup. Cups shall not be filled to overflowing.

(h) Each cup of egg meat shall be carefully examined for odor and appearance before it is emptied into the egg meat bucket, or when egg chutes are used each egg shell shall be carefully examined for odor and the egg meat for appearance before it is emptied into the bucket. All egg meat shall be re-examined by a limited licensed inspector before being emptied into the tank or churn.

(i) Shell particles, meat and blood spots, and other foreign material accidentally falling into the cup or tray shall be removed with the use of a clean spoon or equivalent. Breakers shall keep their fingers out of the cups or trays at all times.

(j) Whenever an inedible egg is broken, the drip tray, racks, cups, other similar egg liquid receptacles, knife, and spoon shall be replaced with clean equipment, except that only the cup need be exchanged when bloody whites or blood rings are encountered.

(k) Inedible and loss eggs are defined to include black rots, white rots, mixed rots, green whites, bloody whites, crusted yolks, stuck yolks, developed embryos at or beyond the blood ring stage, moldy eggs, sour or musty eggs, and any other filthy and decomposed eggs.

(l) The contents of any cup or other similar egg-liquid receptacles containing one or more inedible and/or loss eggs shall be rejected.

(m) Cups containing questionable eggs shall be re-examined by specially trained personnel for final acceptance or rejection.

(n) All inedible egg liquid must be placed in a clearly identified covered container containing a denaturant. This container shall be kept adjacent to, or in the sanitizing room, or near the inspection table and shall be removed from the breaking or sanitizing room as often as is necessary to maintain satisfactory operating conditions but at least once daily.

(o) Contents of drip trays shall be emptied into a cup and smelled carefully before pouring into egg-liquid bucket. Drip trays shall be emptied at least once for each fifteen dozen eggs or every 15 minutes.

(p) Liquid eggs recovered from shell egg containers and leaker trays shall be discarded as inedible.

(q) Eggs as described in § 55.203 (g) (5) shall be broken at a separate table, processed separately, and the product properly identified.

(r) All egg liquid and ingredient containers used in connection with egg breaking operations shall be kept on suitable racks or shelves above floor level. Additives such as sugar, salt, and syrups shall be handled in a clean and sanitary manner.

(s) Liquid-egg containers shall not pass through the candling room.

(t) Test kits, which employ reagent tablets, standard color samples, or other acceptable methods which indicate the concentration of the solution, shall be used to determine the bactericidal strength. (See § 55.223.) The instructions of the manufacturer of the test kit shall be followed carefully.

(u) All leaker trays shall be washed and sanitized before being returned to the candling room.

(v) Shell egg containers whenever dirty shall be washed and drained, and washed, rinsed, sanitized, and drained at the end of each shift.

(w) Belt type shell egg conveyors shall be washed, rinsed, and sanitized at the end of each shift in addition to continuous spraying and squeegeeing during operation.

(x) Cups, knives, racks, separators, trays, spoons, liquid-egg pails, and other egg breaking receptacles shall be washed, rinsed, and sanitized at least every two hours. At the end of a shift this equipment shall be washed and rinsed and immediately prior to use again it shall be immersed in a bactericidal solution and drained.

(y) Sanitized utensils shall be drained on aerated drain racks and shall not be nested.

(z) Dump tanks, draw-off tanks, pumps, low-pressure liquid-egg lines, and surface, tubular or plate coolers, shall be flushed whenever processing operations have ceased for 30 minutes or longer and such equipment shall be dismantled, washed, rinsed, and sanitized as soon as possible after each shift.

(1) Such equipment shall not be reassembled more than two hours prior to use.

(2) Such equipment shall be flushed with a bactericidal solution for at least one minute prior to placing in use, and, if other than chlorine compounds are used as sanitizing agents, it shall be rinsed with clean water.

(aa) Strainers, clarifiers, and other devices used for the removal of shell particles and other foreign material shall be washed, rinsed and sanitized each time it is necessary to change such equipment, but at least once each four hours of operation, and unless gauges are installed which indicate satisfactory operation, pressure strainers shall be washed, rinsed, and sanitized at least once each two hours of operation.

(bb) Breaking room processing equipment shall not be stored on the floor.

(cc) Metal frozen egg containers and lids shall be thoroughly washed with hot water, or with water containing a detergent sanitizer, followed by a clean water rinse, and drained immediately prior to filling.

(dd) Liquid-egg holding vats or tanks shall be thoroughly rinsed with cool water under pressure, washed and rinsed after emptying and sanitized immediately prior to placing in use. If other than chlorine compounds are used as sanitizing agents, such equipment shall be rinsed with clean water following sanitizing.

(ee) Drums, cans, and tank trucks used to hold or transport liquid eggs for drying or freezing, shall be washed, rinsed, and sanitized after each use and just prior to placing in use. If other than chlorine compounds are used as sanitizing agents, such equipment shall be rinsed with clean water following sanitizing.

(ff) Tables shall be washed, scrubbed, and rinsed at the end of each shift.

(gg) Mechanical egg breaking equipment shall be flushed with clean water under pressure at lunch periods and shall be thoroughly cleaned and sanitized at the end of each shift.

(hh) Egg shell conveyors and shell containers shall be cleaned and sanitized daily.

(ii) Containers for inedible egg liquid shall be washed, rinsed, and sanitized after each use.

(jj) All equipment which comes in contact with exposed edible product shall be rinsed with clean water after sanitizing except that a rinse is not necessary when the equipment was sanitized by hypochlorite solutions.

(kk) Breaking stock consisting of edible leakers, checks with adhering dirt, sound shell eggs with adhering dirt, or shell eggs of other than current production shall be processed separately from product eligible to bear the inspection mark. The resultant egg products may be identified with the rectangular stamp illustrated in Figure 2 of § 55.102 (o) (2)

(ll) All frozen egg products prepared under the egg products inspection service in official plants shall be examined by organoleptic examination after freezing to determine their fitness for human food. Any such products which are found to be unfit for human food shall be denatured and any official identification mark which appears on the containers of such unfit products shall be removed or completely obliterated.

§ 55.208 *Liquid egg cooling facilities.* (a) Liquid egg cooling units shall be of approved construction and shall have sufficient capacity to cool all liquid eggs to meet the temperature requirements specified in § 55.209 for liquid eggs prior to drying or freezing.

(b) Surface type coolers shall be fitted with covers unless located in a separate room maintained under sanitary conditions.

(c) If adequate liquid cooling facilities are not provided, shell egg temperatures shall be such that the liquid egg temperature specified in § 55.209 will be produced at time of breaking.

§ 55.209 *Liquid cooling operations.* (a) Liquid-egg storage rooms, including surface cooler and holding tank room, shall be kept clean, free from objectionable odors, and condensation.

(b) All shell eggs shall be precooled to a temperature which will produce liquid eggs at less than 70° F at time of breaking. However, this requirement shall not be applicable to eggs that are washed on the premises and immediately broken.

(c) All liquid whole eggs and plain yolks shall be cooled to a temperature of less than 45° F. within one hour after breaking and held at that temperature or less until frozen, dried, or delivered to consumer with the following exceptions:

(1) The product is packed in metal containers of 30 pounds or less capacity and is placed into a sharp freezer within 40 minutes from time of breaking, at such temperatures and under such stacking conditions that will lower the temperature of the product to 45° F. or below within one hour;

(2) The product is to be stabilized by removal of glucose and is cooled to 45° F. or less immediately following stabilization;

(3) The stabilized product that will be dried within 30 minutes after stabilization is completed; or

(4) The product is to be pasteurized within one hour after breaking and immediately cooled to 45° F. or less within one hour after pasteurization. Liquid whole eggs and plain yolks if held more than 8 hours shall be reduced to a temperature of less than 40° F. and held at that temperature or less until frozen, dried, or delivered to consumer except as otherwise provided in subparagraph (2) of this paragraph. Liquid whole eggs and yolks shall not be held in a liquid state in excess of 20 hours.

(d) Liquid whites that are to be frozen, yolks, and whole egg blends with salt or sugar added, shall be produced at temperatures not exceeding 70° F. and shall be placed in sharp freezing facilities as quickly as possible but at least within one hour after breaking. If handled otherwise, the temperature requirements of paragraphs (b) and (c) of this section shall apply.

(e) Liquid whites that are to be stabilized and dried shall be stabilized by removal of glucose by fermentation, enzymatic oxidation, or any other acceptable procedure. Liquid whites shall be held at a temperature not exceeding 70° F. until the stabilization process is begun. Drying will be carried out as soon as possible after the removal of the glucose and the capacity of the drier shall be sufficient to handle the volume of product stabilized so that the storage of stabilized liquid whites will not be necessary as a regular operating procedure.

(f) Compliance with temperature requirements applying to liquid eggs shall be considered as satisfactory only if the entire mass of the liquid meets the requirements.

(g) Surface coolers must be kept covered at all times unless located in a separate room maintained under sanitary conditions.

(h) Agitators shall be operated in such a manner as will minimize the production of foam.

(i) When ice is used as an emergency refrigerant, by being placed directly into

the egg meat; the source of the ice must be certified by the local or State Board of Health. Such liquid shall not be frozen and identified with the Department legend, but it may be dried and so identified. All ice shall be handled in a sanitary manner.

§ 55.210 *Liquid egg holding.* (a) All tanks, vats, drums, or cans used for holding liquid eggs shall be of approved construction, fitted with covers (except when held in vat rooms, egg breaking, or canning rooms) and located in rooms maintained in a sanitary condition.

(b) Liquid-egg holding tanks or vats shall be equipped with an agitator.

(c) Inlets to holding tanks or vats shall be such as to prevent excessive foaming.

(d) Gaskets, if used, shall be of a sanitary type.

§ 55.211 *Freezing facilities.* (a) Freezing rooms, either on or off the premises, shall be capable of freezing all liquid egg products in accordance with the freezing requirements as set forth in §55.212.

(b) Fans shall be provided to guarantee adequate air circulation in the freezing room.

§ 55.212 *Freezing operations.* (a) Freezing rooms shall be kept clean and free from objectionable odors.

(b) Freezing rooms shall be maintained at temperatures that will produce a solidly frozen product within 72 hours after it has been placed into the freezer, except that in the case of egg mixes, or blends, the freezer shall be operated at temperatures to preserve these products in a satisfactory condition.

(c) Containers shall be stacked so as to permit circulation of air around each individual container.

(d) The outside of liquid-egg containers shall be clean and free from evidence of liquid egg.

(e) Frozen eggs not officially identified shall be stored in a specifically designated and segregated section of the storage room and each package shall be appropriately marked.

§ 55.213 *Defrosting facilities.* (a) Approved metal defrosting tanks or vats constructed so as to permit ready and thorough cleaning shall be provided.

(b) Frozen egg crushers, when used, shall be of approved metal construction. The crushers shall permit ready and thorough cleaning and the bearings and housings shall be fabricated in such a manner as to prevent contamination of the egg products.

(c) Service tables shall be of approved metal construction without open seams and the surfaces shall be smooth to allow thorough cleaning.

(d) Squeegees shall be provided for removing adhering egg meat from containers.

§ 55.214 *Defrosting operations.* (a) Frozen whole eggs and yolks shall be turned into a liquid state in a sanitary manner as quickly as possible after the defrosting process has begun.

(b) Each container of frozen eggs shall be checked for condition and odor just prior to being emptied into the crusher or receiving tank. Frozen eggs which have objectionable odors and are unfit for human food (e. g., sour, musty, oil, fermented, or decomposed odors) shall be denatured.

(c) Frozen whites used in the production of dried albumen may be defrosted at room temperature.

(d) Frozen whole eggs and yolks may be tempered or partially defrosted for not to exceed 48 hours at a room temperature no higher than 40° F., or not to exceed 24 hours at a room temperature above 40° F.. *Provided,* That no portion of the defrosted liquid shall exceed 50° F while in or out of the container.

(1) Frozen eggs packed in metal containers may be placed in running cold tap water without submersion to speed defrosting.

(2) The defrosted liquid shall be held at 40° F or less except in the case of the product to be stabilized by glucose removal as provided in § 55.209 (c) (2) Defrosted liquid shall not be held more than 16 hours prior to drying.

(e) Sanitary methods shall be used in handling containers, extracting semi-frozen eggs, and in removing adhering egg liquid.

(1) To rinse out containers, the pouring of water from one container into another is not permitted.

(2) Emptied cans shall not be stacked one on the other while waiting final removal of liquid.

(3) Paper or fiber packages of frozen eggs shall not be immersed in water to speed defrosting.

(f) Crushers and other equipment used in defrosting operations shall be dismantled at the end of each shift and shall be washed, rinsed, and sanitized.

(1) Where crushers are used intermittently, they shall be flushed after each use and again before being placed in use.

(2) Floors and work tables shall be kept clean.

§ 55.215 *Spray process drying facilities.* (a) Driers shall be of a continuous discharge type. Collectors shall be equipped with automatic bag shakers, vibrators, or sweeps, or so constructed that powder will not accumulate on the walls.

(b) Driers shall be of approved construction and materials, without open seams, and the surfaces shall be smooth to allow for thorough cleaning.

(c) Driers shall be equipped with approved air intake filters and with intake and exhaust recording thermometers.

(d) Air shall be drawn into the drier from sources free from foul odors or excessive dust and dirt.

(e) Indirect heat or the use of an approved premixing device or other approved devices for securing complete combustion in direct-fired units is required. A premix type burner, if used, shall be equipped with approved air filters at blower intake.

(f) High pressure pump heads and lines shall be of stainless steel construction or equivalent which will allow for thorough cleaning.

(g) Preheating units, if used, shall be of stainless steel construction or equivalent and shall be capable of flash heating liquid eggs to a temperature of not less than 138° F

(h) Powder conveying equipment shall be so constructed as will facilitate thorough cleaning.

(i) Sifters shall be of approved construction and sifting screens shall be no coarser than the opening size specified for No. 16 mesh (U. S. Bureau of Standards) Sifters must be so constructed that accumulations of large particles or lumps of dried eggs can be removed continuously while the sifter is in operation.

(j) Cooling equipment for dried egg powder shall be provided and be capable of cooling all powder to a temperature requirement of 85° F or less at time of packaging.

§ 55.216 *Spray process drying operations.* (a) The drying room shall be kept in a dust-free, clean condition at all times and shall be free of flies, insects, and rodents.

(b) When liquid whole eggs and yolks are preheated they shall be heated to a temperature of not less than 138° F

(c) Low pressure liquid-egg lines, high pressure pumps, low pressure pumps, homogenizers, and pasteurizers shall be flushed after each day's run, and dismantled, washed, and flushed thoroughly with clean water.

(1) Spray nozzles, orifices, cores, or whizzers shall be washed, rinsed, and sanitized immediately after being removed.

(2) High pressure lines shall be flushed with cool water, flushed with acceptable detergents, and rinsed with a bactericidal solution after each day's operation.

(3) Within two hours prior to resuming operations, equipment shall be reassembled and flushed with a bactericidal solution for not less than one minute and, if other than chlorine compounds are used as sanitizing agents, shall be rinsed with clean water prior to placing in use.

(4) The drier should be started on water each day prior to drying liquid eggs.

(d) All powder shall be sifted through a No. 16 or finer mesh screen (U. S. Bureau of Standards) and such screens shall be replaced whenever torn or worn.

(e) Accumulations of large particles or lumps of dried eggs shall be removed from the sifter screens continuously.

(f) All powder except albumen shall be cooled to 85° F or below as it is discharged from the mechanical cooling unit. Powder not cooled to 85° F or lower at the time it is discharged from the cooling equipment may be immediately recirculated through the cooling unit until such time as the temperature requirement is met. When other approved methods are used to cool the powder, the temperature of the powder shall be lowered to 85° F or below within one hour after being removed from the drier. The temperature determination may be made before or after packaging.

(g) Drying units shall be brushed down whenever they are shut down and the temperature of the drying chamber is permitted to drop to 100° F or lower, or whenever the shut-down exceeds five hours. The drier shall be washed,

rinsed, and sanitized at least once each week and whenever it is to be shut down for more than 24 hours. Bags from bag collectors shall be dry cleaned or laundered at least once each month.

(h) Powder conveyors, mechanical powder coolers, and blenders shall be cleared of product and brushed down daily and washed at least once a week. Powder sifters shall be brushed down daily.

(i) All bag shakers, vibrators, or sweeps, on either secondary or primary chambers and/or collectors, shall be operated automatically so as to prevent powder accumulating on the walls.

§ 55.217 *Spray process powder· definitions and requirements*—(a) *Definition of product.* (1) "Primary powder" is that powder which is continuously removed from the primary or main drying chamber while the drying unit is in operation.

(2) Secondary powder is that powder which is continuously and automatically removed from the secondary chamber and/or bag collector chamber while the drying unit is in operation.

(3) "Sweep-down powder" is that powder which is recovered in the brush-down process from the primary or secondary chamber and conveyors.

(4) "Dust-house powder" is that powder which accumulates in the dust house.

(5) "Brush bag powder" is that powder that is brushed from the collector bags when they are removed for cleaning.

(b) *Egg powder· blending.* (Subparagraphs (1) (2) and (5) of this paragraph are applicable to all powder, and subparagraphs (3) and (4) of this paragraph are applicable only to whole eggs and yolks.)

(1) The powder shall be blended uniformly throughout the operation.

(2) Secondary powder shall be blended with primary powder continuously by mechanical means.

(3) Approximately the first and last 175 pounds of powder from the main drier for each continuous operation shall be set aside and checked for palatability.

(4) Only powder scoring 6½ or higher in palatability shall be eligible for identification with the inspection mark. If it scores less than 6½ but not less than 4 it may be identified with the rectangular mark as provided in § 55.102 (o) (2) Powder scoring less than 6½ shall not be blended with higher scoring powder, if the resultant finished product is to be identified with the inspection mark. Palatability determinations shall be made from representative samples drawn by the USDA resident supervisor. The resident supervisor may make the tests incidental to blending; however, palatability tests and certification with respect to the finished product shall be made on the basis of samples submitted to a USDA laboratory. Sweep-down powder and powder not eligible to bear the inspection mark because of palatability less than 6½ but not lower than 4, or in excess of 5 percent but not in excess of 8 percent moisture, may be officially identified as provided in § 55.102 (o) (2)

(5) Dust-house, brush bag, and badly scorched powder and screenings, shall not be blended or officially identified.

§ 55.218 *Albumen flake process drying facilities.* (a) Drying facilities shall be constructed in such a manner as will allow thorough cleaning and be equipped with approved intake filters and intake thermometers.

(b) The intake air source shall be free from excessive dust or dirt.

(c) Premix type burners, if used, shall be equipped with approved air filters at blower intake.

(d) Fermentation tanks, drying pans, trays or belts, scrapers, curing racks, and equipment used for pulverizing pan dried albumen, if used, shall be constructed of approved materials in such a manner as will permit thorough cleaning.

(e) Sifting screens shall be constructed of approved materials in such a manner as will permit thorough cleaning and be in accordance with the specifications for whichever type of albumen it is desired to produce.

§ 55.219 *Albumen flake process drying operations.* (a) The fermentation, drying, and curing room, shall be kept in a dust-free, clean condition and free of flies, insects, and rodents.

(b) Ceilings and walls shall have a surface of tile, enamel, paint, or other water-resistant material.

(c) Floors shall be free from cracks or rough surfaces which form pockets for accumulation of water or dirt, and the intersections with walls shall be impervious to water with ample drainage provided.

(d) All packaging equipment and accessories which come into contact with the dried product shall be constructed without open seams and of materials that can be kept clean and which will have no deleterious effect on the product. Service tables shall be of approved metal construction without open seams and all metal surfaces shall be smooth to permit thorough cleaning.

(e) Storage racks or cabinets shall be provided for the storing of drying room and packaging room accessories and tools.

(f) Packaging rooms shall be kept in a clean condition free of flies, insects, and rodents.

(g) Package liners shall be inserted in a sanitary manner, and equipment and supplies used in the operation shall be kept off the floor.

(h) Utensils used in packaging dried eggs shall be kept clean at all times and whenever contaminated shall be washed, rinsed, and sanitized. When not in use scoops, brushes, tampers, etc., shall be stored in sanitary cabinets or on racks provided for this purpose.

(i) Automatic container fillers shall be of a type that will accurately fill given quantities of product into the containers. Scales shall be provided to accurately check the weight of the filled containers. All equipment used in mechanically packaging dried egg products shall be vacuum cleaned daily.

§ 55.221 *Dried egg storage.* (a) Dried egg storage shall be sufficient to adequately handle the production of the plant for a 48-hour period, and capable of maintaining temperatures in accordance with the requirements set forth herein.

(b) Dried egg storage space shall be kept dry, clean, and free from objectionable odors.

(c) Spray process dried whole eggs and yolks shall be placed under refrigeration as soon as possible after packaging. Such products shall be placed under refrigeration at 50° F or below within 24 hours after manufacture.

(d) Dried albumen may be stored at room temperature.

§ 55.222 *Washing and sanitizing room or area facilities.* (a) This room should be a separate room, well-lighted, and of sufficient size to permit operators to properly wash and sanitize all equipment at the rate required by the size of the operation. Adequate ventilation shall be provided to insure the prompt removal of odors and vapors and the air flow shall be away from the breaking room. If the washing and sanitizing room is not a separate room, it shall be an area well segregated from the breaking areas and it shall be well ventilated with air movement directed away from the breaking operations so that odors and vapors do not permeate the breaking areas.

(b) Ceiling and walls shall have a surface of tile, enamel, paint, or other water-resistant material.

(c) Floors shall be free from cracks or rough surfaces which form pockets for accumulation of water and dirt, and intersections with walls shall be impervious to water with ample drainage provided.

§ 55.223 *Washing and sanitizing requirements.* The bactericidal solution referred to in the following requirements shall be a hypochlorite or other approved bactericidal solution, carrying a minimum original strength of 200 p. p. m. of available chlorine or equivalent. The solution shall be changed whenever the strength of this solution drops to 100 p. p. m. of available chlorine or equivalent.

(a) Breaking room and washing and sanitizing room floors shall be scrubbed, rinsed with clean water, and squeegeed.

(b) Trash cans, inedible egg containers, and shell cans shall be scrubbed, rinsed with clean water, and sprayed or flushed with a bactericidal solution.

(c) Service shelves, breaking, and service tables shall be washed, sprayed or flushed with bactericidal solution, and rinsed or flushed with clean water under pressure.

(d) Shell egg and belt egg shell conveyors shall be flushed with clean cool water under pressure, scrubbed with water containing washing compound, rinsed with clear water, and sprayed or flushed with a bactericidal solution. Wooden spool shell egg conveyors shall be cleaned in such a manner as to prevent their becoming a sanitary hazard.

(e) Worm type egg shell conveyors shall be flushed with clean water under pressure after each shift to remove adhering egg material and shells, and shall be thoroughly cleaned and sprayed or

flushed with bactericidal solution once daily.

(f) Shell egg pails, leaker trays, knives, cups, separators, spoons, trays, tray racks, liquid egg pails, scrapers, liquid egg chutes, and spray nozzles (including orifices, cores, and whizzers) shall be washed in warm water, containing washing compound, rinsed with cool or lukewarm clear water, and sanitized by immersing in a bactericidal solution for not less than one minute and drained.

(g) Low pressure pumps, liquid egg lines, homogenizers, hashers, and preheaters shall be flushed with clean cool water, dismantled, brushed with washing compound solution, and rinsed with clean cool water. Within two hours prior to placing equipment in use it shall be reassembled and flushed with a bactericidal solution for not less than one minute.

(h) Dump tanks, churns, clarifiers and strainers, liquid egg cooling units, draw-off tanks, holding tanks, liquid cans or drums, tank trucks, crushers, and belts shall be flushed with clean cool water under pressure, brushed with washing compound solution, rinsed with clean cool water, and sprayed or flushed with a bactericidal solution just prior to use.

(i) Equipment which comes in contact with edible products shall be rinsed with clean water after it has been sanitized, if other than hypochlorites are used as sanitizing agents.

§ 55.224 *Health and hygiene of personnel.* (a) Personnel facilities, including toilets, lavatories, lockers, and dressing rooms shall be adequate and meet State and local requirements for food processing plants.

(b) Toilets and dressing rooms shall be kept clean and adequately ventilated to eliminate odors and kept adequately supplied with soap, towels, and tissues. Toilet rooms shall be ventilated to the outside of the building.

(c) No person affected with any communicable disease (including, but not being limited to tuberculosis) in a transmissible stage, or with open sores, or cloth bandages on hands shall be permitted to come in contact with eggs in any form or with equipment used to process such eggs.

(d) All workers coming into contact with liquid or dried eggs, containers or equipment, shall wear clean outer uniforms.

(e) All plant personnel handling exposed edible product shall wash their hands before beginning work, and upon returning to work after leaving the work room.

(f) Expectorating, or other unsanitary practices, shall not be permitted and should be reported to the management immediately.

(g) Use of tobacco in any form by workers shall not be permitted in rooms where edible products are exposed.

(h) Hair nets or caps shall be properly worn by all persons employed in breaking and packaging rooms.

§ 55.225 *Pasteurization of liquid whole eggs.* When liquid whole eggs are pasteurized the provisions of this section shall apply..

(a) *Pasteurizing facilities.* Adequate pasteurizing equipment of approved construction shall be provided so that all of the liquid whole egg will be processed as provided in paragraph (b) of this section. The pasteurizing equipment shall be provided with a holding tube, an automatic flow diversion valve with attached thermal controls, and recording devices which will control the flow of egg liquid in such a manner as will accomplish pasteurization as set forth in paragraph (b) of this section and will record temperatures continuously and automatically during the process. It shall be equipped with automatic sound warning devices to indicate failure of proper operation. Refrigerated holding vats of sufficient capacity shall be provided to hold liquid eggs prior to and after pasteurization.

(b) *Pasteurizing operations.* The strained or filtered liquid egg shall be flash heated to not less than 140° F. and not more than 142° F. and shall be held at this temperature for not less than 3 minutes and not more than 3½ minutes. The flow diversion valve shall be installed so that all liquid not meeting the temperature requirements shall be diverted to a receiving tank and a warning given of failure to meet the temperature requirements. The sanitary pipe leading from the flow diversion valve shall be dismantled, cleaned, and sanitized and the flow diversion valve flushed with cold water if a 30-minute time interval has elapsed between use and reuse. The pasteurizing equipment shall be dismantled, cleaned, and sanitized at the end of each day's operation, and whenever there is evidence of liquid coagulation as shown by a temperature differential of 5° F., between the liquid egg temperature and the temperature of the water used in the pasteurizing equipment. If the eggs are pasteurized within 30 minutes after time of breaking, they need not be chilled to 45° F prior to pasteurization. Immediately after pasteurization the liquid eggs shall be cooled as provided in § 55.209 unless they are dried immediately.

§ 55.226 *Stabilized (acidified) dried whole eggs.* When liquid whole eggs are acidified with hydrochloric acid prior to drying and sodium bicarbonate added after drying, the provisions of this section shall apply.

(a) *Stabilizing facilities.* Vats or tanks used for collecting, holding, and acidifying liquid whole eggs shall be of approved metal construction. They shall be equipped with mechanical agitating devices of such design as will maintain continuous and uniform agitation without excess foaming. They shall be equipped with a recording potentiometer for the purpose of registering and recording continuously the "pH" of the entire quantity of liquid in the vat. The equipment used for introducing sodium bicarbonate into dried whole eggs shall be of approved construction and shall be capable of performing continuous accurate uniform addition of material to the dried whole eggs. It shall be located in an area free of vibration from other equipment that might interfere with its proper functioning.

(b) *Stabilizing operations.* (1) Acidification shall take place in equipment as provided in paragraph (a) of this section after pasteurization and in no instance before the liquid is cooled to 45° F

(2) Hydrochloric acid shall be added to the liquid egg in a diffused spray and while the liquid is in a continuous rapid agitation until a "pH" of 5.5 plus or minus .1 is reached. It shall be added at a rate that will require 20 minutes to acidify each 1,000 pounds of liquid eggs. The "HCl" shall be diluted with potable water at a ratio of not less than 6 parts of water to 1 part of "HCl"

(3) Dry sodium bicarbonate shall be added to spray dried whole eggs continuously and at a uniform rate so as to produce a "pH" within the limits of 7.0 to 9.0 after reconstitution and cooking in accordance with procedures set forth in Part 65 of this title.

(4) The hydrochloric acid and sodium bicarbonate used for the acidification and neutralization process shall be of U. S. Pharmacopoeia grade (U. S. P.)

(5) All equipment used in the acidification operation shall be washed clean and rinsed with bactericidal solution at the end of each shift. All equipment used in neutralization shall be cleaned at the end of each shift.

§ 55.227 *Gas packing dried whole eggs.* When dried whole eggs are to be gas packed the provisions of this section shall apply.

(a) *Gas packing facilities.* (1) Tables, storage bins, hoppers, and conveyors of approved construction shall be provided.

(2) The gassing equipment used shall be capable of partially evacuating the air from the cans and introducing a gas mixture consisting of 80 percent by volume of nitrogen and 20 percent by volume of carbon dioxide as a replacement for the evacuated air.

(3) The equipment used to supply the carbon dioxide and nitrogen shall have flow meters or similar devices so that there is evidence that there is 20 percent by volume of carbon dioxide and 80 percent by volume of nitrogen being delivered.

(4) Metallic storage tanks for powder not canned directly from the drying unit shall be provided.

(5) Containers used for canning shall have the inside surfaced with acceptable lacquer or tin finish. The construction of the containers shall be such as to effect a complete seal upon completion of the canning operation.

(b) *Gas packing operations.* (1) Product from the drying unit shall be sifted and canned continuously unless it is stored temporarily in a storage tank.

(2) The product shall be cooled to 85° F at time of canning or temporary storage.

(3) Following temporary storage in the tank the dried product shall be resifted in accordance with § 55.215 (i) prior to gas packing.

(4) Oxygen determination shall be in accordance with the Orsat method as described in Scott's "Standard Methods of Chemical Analysis," 5th Edition (1939) and shall be made on an empty can immediately after sealing opera-

tions. The empty can shall be processed through the gassing chamber in the same manner as a can filled with finished product.

(5) Containers and lids used in canning shall be free of carbon dust, lint, oil, or other foreign material.

(6) Can filling shall be effected with as little powder spillage as possible.

(7) Conveyors, hoppers, scrapers, and canning equipment shall be thoroughly cleaned after each shift.

§ 55.228 *Equipment construction.* Equipment and utensils used in processing shell eggs and egg products shall be of such design, material and construction as will (a) enable the examination, segregation, and processing of such products in an efficient, clean, and satisfactory manner, and (b) permit easy access to all parts to insure thorough cleaning and sanitizing. So far as is practicable, all such equipment shall be made of metal or other imprevious material, if the metal or other impervious material will not affect the product by chemical action or physical contact.

Issued at Washington, D. C., this 14th day of September 1953.

[SEAL] HOWARD H. GORDON,
Administrator Production and Marketing Administration.

[F. R. Doc. 53-8053; Filed, Sept. 17, 1953; 8:46 a. m.]

Chapter VII—Production and Marketing Administration (Sugar Branch), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas

[Sugar Reg. 813, Amdt. 4]

PART 813—SUGAR QUOTAS AND PRORATIONS OF QUOTA DEFICITS

PRORATION OF 1953 QUOTA FOR FOREIGN COUNTRIES OTHER THAN CUBA AND REPUBLIC OF THE PHILIPPINES

Basis and purpose. This amendment is issued pursuant to the Sugar Act of 1948, as amended, and is made for the purpose of prorating among those foreign countries other then Cuba and the Republic of the Philippines which will be able to fill additional prorations, that part of the basic quota for all such foreign countries which will not be filled by the countries to which it was originally prorated. A proportionate increase is made in that part of the quota which is not prorated to specific countries.

Section 204 (b) of the act provides that whenever the Secretary finds that any country will be unable to fill the proration to such country of the quota for foreign countries other than Cuba and the Republic of the Philippines established under section 202 (c) he may apportion such unfilled amount on such basis and to such countries as he determines is required to fill such proration.

This amendment increases the prorations of the quota to five of the countries and the "portion not prorated" These increases have been made in proportion to the initial prorations. In order to afford adequate opportunity to ship the sugar as authorized by this amendment, it is essential that the revised prorations be made effective immediately. Therefore, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of the Administrative Procedure Act is unnecessary, impracticable and contrary to the public interest and the amendment herein made shall become effective on the date of its publication in the FEDERAL REGISTER.

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended, (61 Stat. 922, 65 Stat. 318, 7 U. S. C. Sup., 1100) and the Administrative Procedure Act (60 Stat. 237) § 813.44 of Sugar Regulation 813, as amended (17 F R. 11158; 18 F. R. 2127, 4399, 4759) is hereby amended by adding paragraphs (b) and (c) as follows:

§ 813.44 *Proration of quota for foreign countries other than Cuba and the Republic of the Philippines.* * * *

(b) *Deficit in prorations of foreign countries other than Cuba and the Republic of the Philippines.* It is hereby determined, pursuant to section 204 (b) of the act, that 3,843 short tons, raw value, of the quota for foreign countries other than Cuba and the Republic of the Philippines prorated to El Salvador in paragraph (a) of this section will not be filled by that country.

(c) *Allotment of unfilled prorations.* The amount of sugar determined in paragraph (b) of this section is hereby prorated pursuant to subsection (b) of section 204 of the act, as follows:

Country:	*Additional prorations in short tons, raw value*
Dominican Republic	991
Haiti	96
Mexico	411
Nicaragua	231
Peru	1,864
Subtotal	3,643
Not prorated	200
Total	3,843

Statement of bases and considerations. Section 204 of the act provides that when the Secretary finds that any country will be unable to fill the proration to such country of the quota for foreign countries other than Cuba and the Republic of the Philippines established under section 202 (c) of the act, he may apportion such amount on such basis and to such countries as he determines is required to fill such proration. Section 204 (c) of the act provides that the quota for any domestic area, the Republic of the Philippines, Cuba or other foreign countries as established under the provisions of section 202 shall not be reduced by reason of any such determination of a deficit.

All countries with the exception of El Salvador having prorations of the quota have advised the Department that they can fill additional prorations before the end of the year. Therefore, the quantity determined in § 813.44 (b) has been prorated to the Dominican Republic, Haiti, Mexico, Nicaragua, Peru and to the unprorated portion of the quota on the basis of the initial proration.

After giving effect to the changes set forth in § 813.44 (c) the current prorations of quota for the full-duty countries are as follows:

Country:	*Adjusted prorations short tons, raw value*
Dominican Republic	26,638
El Salvador	------
Haiti	2,578
Mexico	11,045
Nicaragua	7,559
Peru	50,105
Subtotal	97,916
Not prorated	5,364
Total	103,280

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153. Interprets or applies sec. 204, 61 Stat. 925, as amended; 7 U. S. C. Sup. 1114)

Done at Washington, D. C., this 15th day of September 1953. Witness my hand and the seal of the Department of Agriculture.

[SEAL] JOHN H. DAVIS,
Assistant Secretary of Agriculture.

[F. R. Doc. 53-8032; Filed, Sept. 17, 1953; 8:53 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Secretary by the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended by 61 Stat. 11, 63 Stat. 409, 67 Stat. 389; sec. 701, 52 Stat. 1055; 21 U. S. C. 357, 371, 67 Stat. 18), the regulations for tests and methods of assay for antibiotic and antibiotic-containing drugs (21 CFR, 1952 Supp., Part 141, 18 F R. 951) and certification of batches of antibiotic and antiobotic-containing drugs (21 CFR, 1952 Supp., Part 146; 18 F. R. 2335) are amended as indicated below:

1. Section 141.39 (d) is changed to read as follows:

§ 141.39 *Penicillin and streptomycin, penicillin and dihydrostreptomycin.* * * *

(d) *Pyrogens.* Proceed as directed in § 141.3, using as a test dose 2 milliliters per kilogram of a solution containing 5 milligrams of streptomycin or dihydrostreptomycin per milliliter.

2. In § 141.46 *Procaine penicillin in streptomycin sulfate solution* * * * paragraph (d) *Pyrogens* is amended by changing "§ 141.104" to read "§ 141.39 (d) "

3. In § 141.60 *Penicillin and dihydrostreptomycin-streptomycin sulfates* * * * paragraph (b) is amended to read as follows:

(b) *Sterility, toxicity, pyrogens, pH.* Proceed as directed in § 141.39 (b) (c), (d) and (f).

4. Part 141 is amended by adding the following new section:

§ 141.67 *Procaine penicillin and dibenzylethylenediamine dipenicillin G in streptomycin sulfate solution, procaine penicillin and dibenzylethylenediamine dipenicillin G in dihydrostreptomycin sulfate solution (procaine penicillin and dibenzylethylenediamine dipenicillin G in crystalline dihydrostreptomycin sulfate solution)*—(a) *Potency*—(1) *Total potency and procaine penicillin content.* Proceed as directed in § 141.161 (a) (1) and (2) except that in the iodometric assay one drop of 1.2 *N* HCl is added to the blank immediately, before the addition of the 0.01 *N* iodine.

(2) *Dibenzylethylenediamine dipenicillin content.* The difference between the total penicillin potency and the procaine penicillin content determined under subparagraph (1) of this paragraph represents the dibenzylethylenediamine dipenicillin content. The dibenzylethylenediamine dipenicillin content is satisfactory if it is not less than 85 percent of that which it is represented to contain.

(3) *Streptomycin content.* Proceed as directed in § 141.101 (j) and (k)

(4) *Dihydrostreptomycin content* Proceed as directed in § 141.108 (a)

(b) *Sterility.* Proceed as directed in § 141.47 (b) except that no control tube is used in the test for bacteria.

(c) *Toxicity.* Proceed as directed in § 141.39 (c)

(d) *Pyrogens.* Proceed as directed in § 141.39 (d)

(e) *pH.* Proceed as directed in § 141.5 (b) using the undiluted aqueous suspension.

(Sec. 701, 52 Stat. 1055; 22 U. S. C. 371)

5. In § 146.62 *Animal feed containing penicillin* * * *, paragraph (a) (3) is changed to read as follows:

(3) 3-Nitro-4-hydroxyphenylarsonic acid: Not less than 0.0025 percent and not more than 0.0075 percent.

6. Part 146 is amended by adding the following new section:

§ 146.90 *Procaine penicillin and dibenzylethylenediamine dipenicillin G in streptomycin sulfate solutions; procaine penicillin and dibenzylethylenediamine dipenicillin G in dihydrostreptomycin sulfate solution (procaine penicillin and dibenzylethylenediamine dipenicillin G in crystalline dihydrostreptomycin sulfate solution)* Procaine penicillin and dibenzylethylenediamine dipenicillin G in streptomycin sulfate solution and procaine penicillin and dibenzylethylenediamine dipenicillin G in dihydrostreptomycin sulfate solution conform to all requirements and are subject to all procedures prescribed by § 146.67 for procaine penicillin in streptomycin sulfate solution and procaine penicillin in dihydrostreptomycin sulfate solution except that:

(a) Each milliliter shall contain not less than 100,000 units of procaine penicillin, not less than 100,000 units of dibenzylethylenediamine dipenicillin G, and not less than 0.25 gram of streptomycin sulfate or dihydrostreptomycin sulfate, but each immediate container shall contain not less than 200,000 units of procaine penicillin, not less than 200,000 units of dibenzylethylenediamine dipenicillin G, and not less than 0.5 gram of streptomycin sulfate or dihydrostreptomycin sulfate. The dibenzylethylenediamine dipenicillin G used conforms to the requirements prescribed by § 146.68 (a)

(b) In lieu of the directions prescribed by § 146.67 (c) (1) (ii) each package shall bear on the outside wrapper or container and the immediate container the number of units of procaine penicillin, the number of units of dibenzylethylenediamine dipenicillin G, and the number of grams of streptomycin sulfate or dihydrostreptomycin sulfate in each milliliter of the batch.

(c) In addition to complying with the requirements of § 146.67 (d) a person who requests certification of a batch shall submit with his request a statement showing the batch mark, and (unless it was previously submitted) the results and the date of the latest tests and assays of the dibenzylethylenediamine dipenicillin G used in making the batch for potency, crystallinity, and penicillin G content, and the number of units of dibenzylethylenediamine dipenicillin G in each milliliter of the batch. He shall also submit in connection with his request a sample consisting of 3 packages containing approximately equal portions of not less than 0.5 gram each of the dibenzylethylenediamine dipenicillin G used in making the batch.

(d) The fee for the services rendered with respect to each immediate container in the sample of dibenzylethylenediamine dipenicillin G submitted in accordance with the requirements prescribed therefor by this section shall be $4.00.

7. In § 146.106 *Streptomycin sulfate solution* * * * paragraph (a) (1) is changed to read as follows:

(a) *Standards of identity* * * *

(1) Its potency is not less than 250 milligrams per milliliter and not more than 500 milligrams per milliliter, unless it is intended solely for veterinary use and is conspicuously so labeled.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

This order, which provides for tests and methods of assay and certification of a new antibiotic drug procaine penicillin and dibenzylethylenediamine dipenicillin G in streptomycin sulfate solution and procaine penicillin and dibenzylethylenediamine dipenicillin G in dihydrostreptomycin sulfate solution; for a change in the test for pyrogens for preparations containing penicillin and streptomycin or dihydrostreptomycin to provide for a test dose of 2 milliliters of a solution containing 5 milligrams in lieu of 1 milliliter of a solution containing 10 milligrams of streptomycin or dihydrostreptomycin; for a change in the minimum and maximum amounts of 3-nitro-4-hydroxyphenylarsonic acid that may be contained in animal feeds containing one or more of the certifiable antibiotic drugs; and for a change in the potency standards for streptomycin sulfate solution and dihydrostreptomycin sulfate solution to provide for a minimum of not less than 250 milligrams per milliliter and a maximum of not more than 500 milligrams per milliliter, unless it is intended solely for veterinary use and is conspicuously so labeled, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for the aforesaid amendments.

Dated: September 14, 1953.

[SEAL] OVETA CULP HOBBY, *Secretary.*

[F. R. Doc. 53-8056; Filed, Sept. 17, 1953; 8:46 a. m.]

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Secretary by the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended by 61 Stat. 11, 63 Stat. 409, 67 Stat. 389; sec. 701, 52 Stat. 1055; 21 U. S. C. 357, 371, 67 Stat. 18) the regulations for tests and methods of assay for antibiotic and antibiotic-containing drugs (21 CFR, 1952 Supp., Part 141) and certification of batches of antibiotic and antibiotic-containing drugs (21 CFR, 1952 Supp., Part 146; 18 F R. 5366) are amended as indicated below:

1. Part 141 is amended by adding the following new section:

§ 141.66 *Capsules procaine penicillin in oil.*—(a) *Potency.* Proceed as directed in § 141.1, except paragraph (i) of that section, and in lieu of the directions in § 141.1 (d) prepare the sample as follows: Place 12 capsules in a blending jar containing 40 milliliters of absolute alcohol and 200 milliliters of distilled water. After blending for 1 minute with a high-speed blender, add 260 milliliters of distilled water. Blend again for 1 minute and make the proper estimated dilutions in 1-percent phosphate buffer at pH 6.0. Its potency is satisfactory if it contains not less than 85 percent of the number of units per capsule that it is represented to contain.

(b) *Moisture.* Using an accurately weighed sample of approximately 1 gram of the capsule contents, proceed as directed in § 141.7 (c)

2. In § 141.201 *Chlortetracycline, hydrochloride,* paragraph (c) *Toxicity* is amended by changing the period at the end thereof to a comma and adding the following new clause: "except if it is intended for use solely in the manufacture of a veterinary drug for nonparenteral use, use a test dose of 0.4 milliliter of such solution."

3. Part 141 is amended by adding the following new section:

§ 141.416 *Bacitracin methylene disalicylate*—(a) *Potency.* Proceed as directed in § 141.401 (a) (1) except in lieu of the directions for preparing the sample in § 141.401 (a) (1) (ii) prepare the sample as follows: Place an accurately weighed sample of approximately 1 gram in a blending jar, add 99 milliliters of an aqueous solution of 2-percent sodium bicarbonate and 1 milliliter of a 10-percent equeous solution of polysorbate 80 and blend for 3 minutes in a high-speed blender. Allow the foam to subside, remove an aliquot of the solution, and dilute to 1 unit per milliliter with 1-percent phosphate buffer.

(b) *Toxicity.* Proceed as directed in § 141.305 (b) using as the test dose 1 milliliter of a suspension containing 1,000 units of bacitracin activity per mouse.

(c) *Moisture.* Proceed as directed in § 141.5 (a)

(d) *pH.* Proceed as directed in § 141.5 (b) using a saturated aqueous solution containing approximately 50 milligrams per milliliter.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

4. Part 146 is amended by adding the following new section:

§ 146.39 *Capsules procaine penicillin in oil*—(a) *Standards of identity, strength, quality, and purity.* Capsules procaine penicillin in oil are capsules composed of procaine penicillin, aluminum monostearate, and sesame oil or peanut oil, enclosed in a suitable and harmless soft gelatin capsule. The potency of each capsule is not less than 200,000 units. Its moisture content is not more than 1.4 percent. The procaine penicillin used conforms to the standards prescribed by § 146.44 (a) except § 146.44 (a) (2) and (3) Each other ingredient used, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging.* In all cases the immediate container shall be a tight container as defined by the U. S. P. and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded.

(c) *Labeling.* Each package shall bear on its label or labeling, as hereinafter indicated, the following:

(1) On the outside wrapper or container and the immediate container:

(i) The batch mark.

(ii) The number of units in each capsule of the batch.

(iii) The name of the vegetable oil and the quantity of aluminum monostearate used in making the batch.

(iv) The statement "Expiration date _____," the blank being filled in with the date which is 24 months after the month during which the batch was certified.

(2) On the outside wrapper or container:

(i) The statement "Caution: Federal law prohibits dispensing without prescription," unless it is packaged for dispensing and it is intended solely for veterinary use and is conspicuously so labeled.

(ii) If it is packaged for dispensing and it is intended for use by man, a reference specifically identifying a readily available medical publication containing information (including contraindications and possible sensitization) adequate for the use of such drug by practioners licensed by law to administer it; or a reference to a brochure or other printed matter containing such information, and a statement that such brochure or other printed matter will be sent on request: *Provided, however,* That this reference may be omitted if the information is contained in a circular or other labeling within or attached to the package.

(3) On the circular or other labeling within or attached to the package, if it is packaged for dispensing and it is intended solely for veterinary use and is conspicuously so labeled, adequate directions and warnings for the veterinary use of such drug by the laity. Such circular or other labeling may also bear a statement that a brochure or other printed matter containing information for other veterinary uses of such drug by a veterinarian licensed by law to administer it will be sent to such veterinarian on request.

(d) *Request for certification, samples.* (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the penicillin used in making such batch was completed, the number of units in each capsule, the quantity of each ingredient used in making the batch, the date on which the latest assay of the drug comprising such batch was completed, and a statement that each ingredient used in making the batch conforms to the requirements prescribed therefor by this section.

(2) Except as otherwise provided in subparagraph (4) of this paragraph, such person shall submit in connection with his request results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(i) The batch; average potency per capsule and average moisture.

(ii) The penicillin used in making the batch; potency, toxicity, moisture, pH, penicillin K content (unless it is procaine penicillin G) crystallinity, and the procaine penicillin G content.

(3) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(i) The batch; 1 capsule for each 5,000 capsules in the batch, but in no case less than 20 capsules or more than 100 capsules, collected by taking single capsules at such intervals throughout the entire time of capsuling the batch that the quantities capsuled during the intervals are approximately equal.

(ii) The penicillin used in making the batch; 10 packages each containing approximately equal portions of not less than 300 milligrams, packaged in accordance with the requirements of § 146.44 (b)

(iii) In case of an initial request for certification, the sesame oil or peanut oil and each other ingredient used in making the batch; 1 package of each containing, respectively, approximately 250 grams and approximately 5 grams.

(4) No result referred to in subparagraph (2) (ii) of this paragraph, and no sample referred to in subparagraph (3) (ii) of this paragraph, is required if such result or sample has been previously submitted.

(e) *Fees.* The fee for the services rendered with respect to each batch under the regulations in this part shall be:

(1) $1.00 for each capsule in the sample submitted in accordance with paragraph (d) (3) (i) of this section; $4.00 for each package in the samples submitted in accordance with paragraph (d) (3) (ii) and (iii) of this section.

(2) If the Commissioner considers that investigations other than examination of such capsules and packages are necessary to determine whether or not such batch complies with the requirements of § 146.3 for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fee is covered by an advance-deposit maintained in accordance with § 146.8 (d)

5. Section 146.201 (a) (1) is amended to read as follows:

§ 146.201 *Chlortetracycline hydrochloride (chlortetracycline hydrochloride salt)*—(a) *Standards of identity, strength, quality, and purity.* * * *

(1) Its potency is not less than 900 micrograms per milligram, except if it is intended for use solely in the manufacture of a veterinary drug for nonparenteral use, its potency is not less than 820 micrograms per milligram;

6. In § 146.204 *Chlortetracycline capsules (chlortetracycline hydrochloride capsules)* the second sentence of paragraph (a) *Standards of identity* * * * is changed to read: "The potency of each capsule is not less than 50 milligrams, unless it is intended solely for veterinary use and is conspicuously so labeled."

7. In § 146.306 *Chloramphenicol palmitate oral suspension,* the third sentence of paragraph (a) *Standards of identity* * * * is changed to read: "Its pH is not less than 4.5 and not more than 7.0."

8. Part 146 is amended by adding the following new section:

§ 146.416 *Bacitracin methylene disalicylate*—(a) *Standards of identity, strength, quality, and purity.* Bacitracin

methylene disalicylate is the methylene disalicylate salt of a kind of bacitracin. It is so purified and dried that:

(1) Its potency is not less than 14 units per milligram.

(2) It is nontoxic.

(3) Its moisture content is not more than 5 percent.

(4) Its pH in a saturated aqueous solution is not less than 3.5 and not more than 5.0.

(b) *Packaging.* In all cases the immediate containers shall be tight containers as defined by the U. S. P The composition of the immediate containers shall be such as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded.

(c) *Labeling.* Each package of bacitracin methylene disalicylate shall bear on its label or labeling, as hereinafter indicated, the following:

(1) On the outside wrapper or container and the immediate container:

(i) The batch mark.

(ii) The number of units of bacitracin per gram, the number of grams of bacitracin activity per pound, and the weight of the drug in the immediate container.

(iii) The statement "Expiration date ----------," the blank being filled in with the date which is 24 months after the month during which the batch was certified.

(iv) The statement "For use only in the manufacture of animal feeds."

(2) On the circular or other labeling within or attached to the package, adequate directions and warnings for the veterinary use of such drug by the laity.

(d) *Request for certification; samples.* (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in the batch, the number of units of bacitracin activity per gram, and the number of grams of bacitracin activity per pound. Such request shall be accompanied or followed by the results of tests and assays made by him on the batch for potency, toxicity, moisture, and pH.

(2) Such person shall submit with his request an accurately representative sample of the batch, consisting of 5 packages each containing approximately 5 grams taken from a different part of such batch, and each shall be packaged in accordance with the requirements of paragraph (b) of this section.

(e) *Fees.* The fee for the services rendered with respect to each batch under the regulations in this part shall be:

(1) $4.00 for each immediate container in the sample submitted in accordance with paragraph (d) (2) of this section.

(2) If the Commissioner considers that investigations other than the examination of such immediate containers are necessary to determine whether or not such batch complies with the requirements of § 146.3 for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fee is covered by an advance deposit maintained in accordance with § 146.8 (d)

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

This order, which provides for tests and methods of assay and certification of two new antibiotic drugs capsules procaine penicillin in oil and bacitracin methylene disalicylate; for a change in the standard of purity of chlortetracycline hydrochloride intended solely for use in the manufacture of a veterinary drug for nonparenteral use from a minimum of 900 micrograms to 820 micrograms per milliliter and a change in the safety test for such drug which reduces the quantity of the test dose per mouse from 1.0 milligram to 0.8 milligram; for a change in the pH standard of chloramphenicol palmitate oral suspension from not less than 6.0 to not less than 4.5; and for deletion of the minimum potency standard for chlortetracycline capsules intended solely for veterinary use, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for the aforesaid amendments.

Dated: September 14, 1953.

[SEAL] OVETA CULP HOBBY, *Secretary.*

[F. R. Doc. 53-8057; Filed, Sept. 17, 1953; 8:46 a. m.]

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

EXEMPTION FROM CERTIFICATION OF BACITRACIN METHYLENE DISALICYLATE UNDER CERTAIN CONDITIONS

Under authority provided in the Federal Food, Drug, and Cosmetic Act (sec. 507 (c) 59 Stat. 463, as amended by 61 Stat. 11, 63 Stat. 409, 67 Stat. 389; 21 U. S. C. 357 (c) 67 Stat. 18) I find that the requirements of sections 502 (1) and 507 of the act with respect to bacitracin methylene disalicylate for use in animal feed or with respect to animal feed containing bacitracin methylene disalicylate are not necessary to insure safety and efficacy of such drug when the animal feed containing this drug is denatured and labeled in compliance with the specified regulation and when used solely for the prevention or treatment of the disease condition indicated, and hereby promulgate the following amendments exempting such drug and animal feed containing it from the requirements:

1. Section 146.61 *Penicillin for use in animal feed* * * * is amended in the following respects:

a. The headnote is amended by changing the period at the end thereof to a semicolon and adding the following new words: *"bacitracin methylene disalicylate for use in animal feed."*

b. In the first sentence of the introductory paragraph, the words "or bacitracin" are changed to read: "bacitracin, or bacitracin methylene disalicylate,"

2. Section 146.62 *Animal feed containing penicillin* * * * is amended in the following respects:

a. The headnote is amended by changing the period at the end thereof to a semicolon and adding the following new words: *"animal feed containing bacitracin methylene disalicylate."*

b. In the first sentence of the introductory paragraph, the words "or bacitracin" are changed to read: "bacitracin, or bacitracin methylene disalicylate,"

c. Section 146.62 is further amended by adding the following new paragraphs:

(j) It is intended for use solely in the prevention of infectious swine enteritis, its labeling bears adequate directions and warnings for such use, and it contains not less than 50 grams of bacitracin activity per ton of feed.

(k) It is intended for use solely as a treatment for infectious swine enteritis, its labeling bears adequate directions and warnings for such use, and it contains not less than 100 grams of bacitracin activity per ton of feed.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry, since it would be against public interest to delay providing for the aforesaid amendments, and since it conditionally relaxes existing requirements.

Dated: September 14, 1953.

[SEAL] OVETA CULP HOBBY, *Secretary.*

[F. R. Doc. 53-8058; Filed, Sept. 17, 1953; 8:46 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter II—Foreign Operations Administration

PART 202—OCEAN SHIPMENTS OF SUPPLIES BY VOLUNTARY NONPROFIT RELIEF AGENCIES

SCOPE OF REGULATIONS; ENUMERATION OF COUNTRIES

The enumeration of countries in § 202.2 *Scope of the regulations in this part,* as published on September 5, 1953, at page 5382 of the FEDERAL REGISTER, is corrected to read as follows: "* * * Austria, those areas of China which the

Director may deem to be eligible for assistance, the Federal Republic of Germany, Greece, France, India, Italy, Pakistan, the zones of Trieste occupied by the United States and the United Kingdon, Yugoslavia, and * * *"

(Sec. 104, 62 Stat. 138, as amended; 22 U. S. C. Sup., 1503)

WILLIAM M. RAND,
Deputy Director
Foreign Operations Administration.

[F. R. Doc. 53-8052; Filed, Sept. 17, 1953; 8:46 a. m.]

PART 203—REGISTRATION OF AGENCIES FOR VOLUNTARY FOREIGN AID

Correction

In Federal Register Document 53-7776, appearing at page 5383 of the issue for Saturday, September 5, 1953, the word "expanded" in the second line of § 203.3 (e) should read "expended"

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter A—Aid of Civil Authorities and Public Relations

PART 501—EMPLOYMENT OF TROOPS IN AID OF CIVIL AUTHORITIES

MISCELLANEOUS AMENDMENTS

Sections 501.1, 501.2 and paragraph (c) of § 501.3 are rescinded and the following substituted therefor:

§ 501.1 *General.* (a) The protection of life and property and the maintenance of law and order within the territorial jurisdiction of any State are the primary responsibility of State and local authorities. Intervention with Federal troops pursuant to the provisions of this part will take place only:

(1) After State and local authorities have utilized all of their own forces and are unable to control the situation; or

(2) When the situation is beyond the capabilities of State or local authorities; or

(3) When State and local authorities will not take appropriate action; or

(4) Under the provisions of certain statutes.

(b) Except in cases of imminent necessity falling within the provisions of § 501.2, intervention with Federal troops will take place only when the Department of the Army has generally or specifically so ordered.

(c) The Department of the Army has primary responsibility among the military services for rendering assistance to civil authorities in domestic disturbances. The other military services have a collateral function for providing such assistance. In the absence of joint or mutual agreements, the Army is responsible for coordinating the functions of all the military services in this activity.

(d) Whenever the provision of military aid to civil authorities in domestic disturbances is required, the Army commander in whose area the need arises is responsibile for implementation of Army action based on published authorities and responsibilities.

(e) The normal channel between the field and the Department of the Army on matters relating to intervention with Federal troops is through the Assistant Chief of Staff, G-3, Operations, General Staff, United States Army, whose office will be open at all times for this purpose. The Assistant Chief of Staff, G-3, Operations, will be kept fully and currently informed on all matters relating to such intervention or the possibility thereof.

§ 501.2 *Emergency.* In case of sudden and unexpected invasion, insurrection, or riot, endangering the public property of the United States, or of attempted or threatened robbery or interruption of the United States mails, or of earthquake, fire, or flood, or other public calamity disrupting the normal processes of Government, or other equivalent emergency so imminent as to render it dangerous to await instructions from the Department of the Army requested through the speediest means of communication available, an officer of the Army in command of troops may take such action, before the receipt of instructions, as the circumstances of the case reasonably justify. Such action, without prior authorization, of necessity may be prompt and vigorous, but should be designed for the preservation of order and the protection of life and property until such time as instructions from higher authority have been received, rather than as an assumption of functions normally performed by the civilian authorities. In any event, the officer taking such action will report immediately his action, and the circumstances requiring it to the Department of the Army, through the Assistant Chief of Staff, G-3, Operations, by the speediest means of communication available, in order that appropriate instructions can be issued at the earliest possible moment.

§ 501.3 *Command.* * * *

(c) With the consent of the Governor or other appropriate official of the State of Territory, the army commander or an officer designated by him may exercise operational or directional control over State Guard or National Guard troops which are not in Federal service. The commanding general of the continental army or the appropriate Territorial commander concerned is responsible to secure, whenever possible, prior undertakings or agreements by State or territorial authorities to insure full cooperation of the State Guard or National Guard troops not in the Federal service with the military commander in the affected area in the event of intervention with Federal troops. The employment by the State or Territory of its own forces must not interfere with or impede Federal functions or activities.

[AR 500-50, Aug. 27, 1953] (R. S. 161; 5 U. S. C. 22. Interpret or apply R. S. 5297, 5298, 5299; 50 U. S. C. 201-203)

[SEAL] WM. E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 53-8072; Filed, Sept. 17, 1953; 8:50 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 206—FISHING AND HUNTING REGULATIONS

COASTAL WATERS OF MASSACHUSETTS AND RHODE ISLAND AND THE WATERS OF FISHERS ISLAND AND GARDINERS POINT, N. Y.

Pursuant to the provisions of section 10 of the River and Harbor Act of March 3, 1899 (30 Stat. 1151, 33 U. S. C. 403) § 206.10 is revoked and § 206.15 is amended in the following respects: The title is revised and the former introductory paragraph revised and designated as paragraph (a) former paragraphs (a) through (e) are redesignated as paragraphs (b) through (f), and former paragraph (f) revoked. Minor revisions have been made where necessary and paragraph (d) revised to include all fishing areas formerly included in § 206.10, all as follows:

§ 206.10 *Coastal waters of Massachusetts from New Hampshire boundary to Chatham, Mass., fishing.* [Revoked]

§ 206.15 *Coastal waters of Massachusetts and Rhode Island and the waters of Fishers Island and Gardiners Point, New York; fishing*—(a) *Authority.* All weir, trap, and pound fishermen operating under authority granted by the States of Massachusetts, Rhode Island, and New York within their respective jurisdictions are hereby authorized by the Secretary of the Army to construct and maintain fish-net stakes and traps, in designated areas of the coastal waters, erected in the usual manner as heretofore, subject to the following regulations.

(b) *Definitions.* * * *

(c) *Supervision.* General supervision of the location, construction, and manner of maintenance of all fishing structures shall be exercised by the New England Division Engineer.

(d) *Description of fishing limits.* (1) The areas within which fishing structures may be placed are shown by hatching on the maps entitled "Areas available for fish traps, Providence, R. I., District, in 2 sheets, File No. F. T. 32" and "Fish Pound areas in Gardiners Bay and Block Island Sound within the New London, Conn., District, File No. Ms. 74" and "Areas available for fish traps, Boston, Mass., District, designated as 117699/13, 14, and 15," copies of which are on file in the New England Division Office, Corps of Engineers, U. S. Army, 857 Commonwealth Avenue, Boston, Massachusetts. (See also United States Coast Survey charts.)

(2) In the navigable parts of all tributary streams and ponds where limiting lines are not shown, no fish structures shall be placed until a map showing the exact location proposed shall have been submitted to and approved by the New England Division Engineer.

(e) *Requirements concerning the placing, marking, and maintenance of structures.* * * *

(5) Such lights and signals shall be displayed on each trap as provided in

§ 209.130 (q) of this chapter. Each light shall have a capacity to burn 8 days of stormy weather unattended. These lights shall be placed at an elevation not less than 10 feet above the plane of mean high water for floating traps, 3 feet above the water. All lights shall be subject to the inspection and approval of the New England Division Engineer. The owner of the structure will be responsible for keeping his lanterns in first-class condition and for the proper maintenance of the light during the hours above prescribed.

* * * * *

(f) *General.* * * *

(3) If at any time it shall be made to appear to the Secretary of the Army that any fishing structure authorized in this section causes unreasonable obstruction to the free navigation of said waters, the owner will be required, upon notice from the New England Division Engineer and within the time specified therein, to remove or alter the structure, or obstructions caused thereby, without expense to the United States, so as to render navigation reasonably free, easy, and unobstructed. No claim shall be made against the United States on account of such removals or alterations.

NOTE: The address of the Division Engineer in charge of the locality within which these regulations are effective is: New England Division, Corps of Engineers, U. S. Army, 857 Commonwealth Avenue, Boston 15, Massachusetts. Sections of the map of fishing limits showing the limits for certain areas in more detail and on a large scale may be obtained by addressing the Division Engineer. A charge of $1.00 is made for each sheet to cover the actual cost of the print. Payment for maps requested should accompany the application, preferably in a postal money order.

[Regs., Sept. 1, 1953, 800.217 (Atlantic Ocean)-ENGWO] (30 Stat. 1151; 33 U. S. C. 403)

[SEAL] WM. E. BERGIN,
Major General, U S. Army,
The Adjutant General.

[F. R. Doc. 53-8071; Filed, Sept. 17, 1953; 8:50 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 3—VETERANS' CLAIMS

PART 4—DEPENDENTS AND BENEFICIARIES CLAIMS

REVOCATION OF CERTAIN PROVISIONAL REGULATIONS

In the Provisional Regulations of Parts 3 and 4, §§ 3.1512, 3.1514, and 4.452 are revoked:

§ 3.1512 *Instructions relating to increase of monthly rates of pension for veterans and the adjudication of applications for pension or increase of pension.* (Instruction 1, Public Law 108, 82d Congress) [Revoked].

§ 3.1514 *Presumption of service-connection for multiple sclerosis under paragraph I (c) Part I, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12)* (Instruction 1, Public Law 174, 82d Congress [Revoked].

§ 4.452 *Burial expenses of deceased persons who served in the military forces of the Commonwealth of the Philippines including certain guerrilla forces.* (Instruction 1, Public Law 21, 82d Congress) [Revoked].

[SEAL] H. V STIRLING,
Deputy Administrator

[F. R. Doc. 53-8075; Filed, Sept. 17, 1953; 8:51 a. m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

SUBPART B—EDUCATION AND TRAINING

TYPES OF COURSES

In § 21.201, paragraph (c) (3) (iv) (*a*) (*6*) is amended to read as follows:

§ 21.201 *Types of courses.* * * *

(c) *Combination course.* * * *

(3) *Institutional on-farm course.* * * *

(iv) * * *

(*a*) * * *

(*6*) The operation of the farm shall be under the control of the veteran by ownership, lease, or other written tenure arrangement. Where the tenure arrangement is other than by ownership, the lease or other written agreement shall afford the veteran control of the farm at least until the completion of his course. Also, the lease or agreement must provide for capital improvements to be made which are necessary for carrying out the farm and home plan, with the veteran furnishing no greater portion of the costs thereof than the benefits accruing to him warrant. Furthermore, it must provide for the landlord to pay a share of the costs of improved practices put into effect in proportion to the returns he will receive from such practices. The veteran's control must be such that he actually will be free to carry out the teachings of his training program and to operate the farm according to a farm and home plan developed by the Veterans Administration in collaboration with the school, the veteran, and, when appropriate and feasible, the landlord. If the Veterans Administration finds that because of the limitations imposed by the conditions of tenure, the veteran is not free or will not be free to carry out the teachings of his training program and to operate the farm according to the farm and home plan, the veteran will be deemed not to have operational control of the farm as required by this subdivision. Ordinarily, training under Part VII, Veterans Regulation 1 (a) as amended, will be approved for only one veteran on a single farm. However, where the Veterans Administration finds that conditions with respect to a particular farm are so highly favorable with regard to its size, character, productivity, and equipment as to assure the successful rehabilitation of a veteran in partnership with another person, such veteran may be placed in training under Part VII with one, but not more than one, other person on a single farm: *Provided,* That person is a veteran who is, or immediately will be, in institutional on-farm training or has satisfactorily pursued institutional on-farm training under Part VII, Public Law 346, 78th Congress, as amended, or Public Law 550, 82d Congress: *And provided further* That there be furnished documentary evidence that the two principals have entered into a bona fide partnership agreement which provides for equal authority between the partners in the management and operation of the farm. Any veteran placed into training under a partnership arrangement will be notified in writing that he will be allowed to remain in training only as long as the stated conditions and other applicable requirements of Veterans Administration Regulations continue to be met. (The foregoing does not prevent a veteran from pursuing institutional on-farm training under Part VII on a farm, the control of which he acquires by entering into an agreement, sometimes alluded to as a partnership, whereby the trainee clearly has sole management and operating control of the farm and the "partner" shares only in the returns from the farm.)

* * * * *

(Sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9, sec. 2, 57 Stat. 43, as amended, sec. 400, 58 Stat. 287, as amended; 38 U. S. C. 11a, 701, 707, ch. 12 note. Interpret or apply secs. 3, 4, 57 Stat. 43, as amended; secs. 300, 1500-1504, 1506, 1507, 58 Stat. 286, 300, as amended; 38 U. S. C. 693g, 697-697d, 697f, g, ch. 12 note)

This regulation is effective September 18, 1953.

[SEAL] H. V STIRLING,
Deputy Administrator

[F. R. Doc. 53-8076; Filed, Sept. 17, 1953; 8:51 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 927]

[Docket No. AO–71–A–24]

HANDLING OF MILK IN NEW YORK METROPOLITAN MILK MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT, AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area. Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business of the 15th day after its publication in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which findings and conclusions are hereinafter set forth was conducted at Elmira, New York, on March 10–13, April 20–24, and April 28–May 1, at Malone, New York, on March 18; at Ogdensburg, New York on March 19; at Watertown, New York, on March 20; and at New York City on May 5 and 6, all in 1953, pursuant to notices thereof issued on January 8, 1953 (18 F R. 256) and February 27, 1953 (18 F. R. 1249)

The material issues of record related to:

1. Provisions of the order applicable to milk and milk products entering the marketing area either from unrevealed sources or from sources not fully subject to the pricing and equilization provisions of the order.
2. The pricing and pooling of milk received on bulk farm tank pickup routes.
3. Definition of a plant and related duties of the market administrator.
4. Verification of the payment of minimum class prices to cooperative associations.
5. Extension of time allowed for establishing that cream has not entered the marketing area.
6. Elimination of requirement for submission of a signed statement of non-pool plant operators in connection with handler reports of utilization.
7. Procedure for assignment of pool and non-pool milk.
8. The territory within which milk and cream may be classified at plants other than those from which it is shipped.
9. Skim milk to which the fluid skim differential should be applied and the amount of the differential.
10. The classification and pricing of milk for fluid use outside the marketing area.
11. Revision of provisions for the designation of plants at which the handling of milk is fully subject to the pricing and equalization provisions of the order.
12. The revision of transportation and location differentials applicable both to minimum class prices paid by handlers and to the uniform price paid to producers.

Proposed findings and conclusions. The proposed findings and conclusions hereinafter set forth relate only to the above listed issues numbered 1 through 10 and are based upon the evidence in the record of the hearing. Proposed findings and conclusions concerning the remaining issues (numbered 11 and 12) and also concerning a portion of issue No. 10 are deferred pending further consideration.

Issue No. 1. The order should continue to provide for payments by handlers into the producer settlement fund on milk from non-pool and unrevealed sources when such milk enters the marketing area or is received at a pool plant outside the marketing area as milk or in milk products classified in Class I–A and Class II and as skim milk which is subject to the fluid skim differential. Present provisions of the order (§ 927.78) however, should be amended for purposes of clarification and to change the rates of such payments as indicated herein.

If the non-pool milk originates at a plant where it is not classified and paid for at minimum class prices pursuant to another Federal order, the rate of payment should be the difference between the class price of use under the New York order, as adjusted for the location of the plant of origin, and (1) the Class III price if such plant of origin is within or nearer than the 421–425 mile zone, or (2) the Midwestern condensery price if the plant or origin is more distant from the market. However, if the volume of pool milk used for butter and cheese exceeds 15 percent of the volume of pool milk in Classes I–A and II the minimum price established for pool milk used for butter and cheese should be used instead of the price for other Class III milk.

If the non-pool milk originated at a plant where it was priced and paid for under another Federal milk marketing order, the rate of payment should be the plus difference, if any, between the class price of use under the New York order, as adjusted for the location of the plant of origin, and the class price paid for it under the other order. However, if the other Federal order permits deductions of the payments to the New York pool from the handler's obligation under the other order, the payments should be computed at the same rate as if the milk originated at a plant not subject to another order.

If the volume of Class III milk in the New York pool for the month is less than 15 percent of the volume of Class I–A and Class II milk, no payments on non-pool milk from non-pool sources should be required.

The present order provisions with respect to payments on milk and milk products as to which the handler fails to establish the plant of origin (unrevealed source) should also be revised and separately stated. The payments on such milk should continue to be computed at the full class price for the class of use.

The need for a provision in the order under which payments are required on milk and certain milk products from non-pool sources (hereinafter referred to as "compensation payments") arises directly from the fact that under the pooling structure of the order, as effective since 1945, some milk and milk products not primarily produced for the marketing area and therefore not pooled under the order may be distributed in the marketing area as Class I and Class II milk (principally fluid milk and cream) without being subject to minimum class prices and pooling at source. In contrast, pooled milk necessarily is subject to minimum class prices and pooling at its source, namely the pool plants subject to the order. Classified pricing of pool milk requires that in order to secure an adequate supply of milk meeting the requirements of the market the minimum class prices for fluid uses in the marketing area must be fixed at levels higher than prices for surplus classifications and the average utilization value of all pool milk. Non-pool milk thus has an advantage over pool milk when distributed as Class I–A and Class II milk because it has not been subject to such high level classified pricing at its source. This disparity between pool and non-pool milk must, in some manner and by some device, be neutralized or compensated for if the integrity of the classified price structure for pool milk under the order is to be maintained and the declared purposes of the act achieved with respect to the New York marketing area.

Non-pool milk which originates at a plant not subject to a market-wide equalization pooling plan has a substantial advantage over pool milk in addition to the price advantage. The handler who receives pool milk from producers and uses or sells it for Class I–A purposes is charged the Class I–A price but is not permitted to pay that full price to his own producers. Instead he must pay a substantial part of it into the equalization fund under the order for distribution through the pool to all pool producers. A non-pool plant operator is not so burdened and limited for he can pay his own farmers the full Class I–A price or any part of it as he believes neces-

sary to retain his supply of milk or outbid pool plant competitors for milk. Unless this condition is dealt with, the non-pool dealer can always outbid a similarly located pool plant competitor for milk supplies without cost to himself. The pool plant competitor obviously cannot afford to pay his own producers the full Class I–A price and also pay equalization to the pool on the same milk. This condition results in disorderly marketing in the milkshed by placing otherwise similarly situated handlers in an unequal cost position for milk sold for fluid purposes in the marketing area.

It is, of course, apparent that if the order were to price and pool all milk received from all farmers at any plant from which any milk or milk products enter the marketing area for Class I–A and Class II use these disparities would not exist because all such milk would then be pool milk and would be subject to pricing and pooling under the order. Drafting of the order in such manner, however, has been found from experience not to be feasible or practical, and an order so drafted did not and could not now effectively accomplish the declared purposes of the act.

Market-wide equalization of producer returns is an essential and indispensable provision of an order regulating the handling of milk for the New York market. Orderly marketing of milk in the market is virtually inconceivable in the absence of provisions for a market-wide pool under which the price required to be paid to producers is based on the utilization of milk by all handlers receiving milk from producers. Without market-wide pooling the inevitable scramble of each handler and producer for his share of the fluid market would render the order ineffective. Minimum class prices at a level necessary to insure an adequate supply of pure and wholesome milk for the market could not be maintained.

Factors primarily associated with the size and complexity of the market preclude the uniformity in utilization among individual handlers which in the absence of market-wide pooling would have to prevail in order to obtain a workable degree of uniformity in prices paid to producers. The milk supply for the market originates on approximately 50,000 farms scattered over a vast production area (milkshed) extending more than 400 miles from the marketing area. Practically all of the milk is delivered from the farms to approximately 400 country plants outside the marketing area. Only about 200 producers deliver their milk directly to plants located in the marketing area. Accordingly, most of the milk consumed in the marketing area is shipped in bulk by tank car or tank truck from country plants to pasteurizing and bottling plants in the marketing area.

These country plants are located generally throughout most of the State of New York, in 23 counties of Pennsylvania, in 4 counties of New Jersey, in 3 counties of Vermont, and 1 county of Massachusetts. The greater part of the milk received at these plants is from farms located within a radius of 10 or 15 miles from the country plant. Although new technological developments are now making it possible for milk to be hauled long distances from farm to plant, it is expected that most producers will continue for some time to deliver their milk to a local plant. Producers, therefore, in general have a limited choice of handlers to whom they may sell their milk and little assurance of how their milk will be utilized by the handler to whom it is delivered.

There are approximately 130 different handlers engaged in the operation of country plants at which milk is received from producers. Only about 50 of these handlers operate or are directly connected with a milk distribution operation in the marketing area. Milk supplied to the marketing area by the balance of the handlers operating country plants is marketed by other handlers engaged in marketing area distribution.

There is a great deal of specialization in the handling of milk at country plants. More than 275 plants are equipped only for the receiving of milk from farmers, cooling the milk, and shipping it to other plants. Such shipments may be made either to milk distributors in the marketing area, milk distributors in other areas, or to manufacturing plants. There are more than 100 country plants which are equipped for separating milk into cream and manufacturing skim milk or for manufacturing whole milk, in addition to being equipped for receiving milk from farmers and shipping it as fluid milk. Some of these manufacturing plants are operated by handlers who have other fluid receiving plants and marketing area distribution facilities. Other manufacturing plants, although operated by handlers who are principally in the business of manufacturing milk, constitute a reserve supply available to the marketing area whenever such milk is needed.

Scattered throughout the area in which these country plants are located are many other plants. These consist of plants for local markets such as Syracuse, Utica, Binghamton, Lancaster, Harrisburg, and many others, country plants supplying the metropolitan area of Northern New Jersey, country plants for Philadelphia, country plants for New England, and a few cheese factories and other manufacturing plants which do not normally supply milk to fluid markets. Also, there are many plants located nearer the New York market than the most distant New York country plant but which are located outside of the territory from which the New York market normally draws its supply. These are plants which regularly supply markets in New England, Philadelphia, Baltimore, and Washington, D. C., together with a few plants not approved for fluid distribution but at which milk received from farmers is utilized in manufactured dairy products.

A considerable number of the plants now in the New York pool are plants which withdrew from the pool during the middle 1940's to supply other fluid markets during a period of relatively short supplies of milk in the Northeast in relation to fluid requirements, but which have returned to the New York pool during the past four years as production increased generally in the Northeast in relation to fluid sales. Other plants have entered the pool during the past three or four years which have no previous history of supplying milk for the New York market. The volume of pool milk in relation to marketing area sales of fluid milk and fluid cream has increased materially since 1948. Abundant supplies from sources not presently designated as pool plants remain, however, which are qualified and eligible for sale in the marketing area and which could readily come into the marketing area in amounts which are substantial. Many of the plants now engaged principally in supplying other markets in or surrounding the milkshed are approved by marketing area health authorities as sources of milk for the marketing area, and many more could readily obtain such approval.

On the distribution end there are about 160 dealers in New York City licensed for the distribution of milk on wholesale and retail routes or to subdealers. A large proportion of these dealers, about 123, have no facilities of their own for receiving milk directly from producers at country plants. These dealers purchase their milk from other dealers who do operate country plants. Some of them obtain their supply or a considerable proportion of it by making contracts with country dealers, such contracts frequently being yearly contracts. Other milk dealers make no long term commitments for milk or make long term commitments for only a part of their requirements and rely on buying milk on a day to day or week to week basis. Sales of this latter type are generally known in the market as "spot sales." Buyers of spot milk naturally buy their milk at the lowest price at which it is obtainable at the time they are making their purchases. Dealers who depend on spot milk for all or a major part of their supply, however, do not provide the only market for spot milk in the marketing area. Many of the dealers engaged in marketing area distribution also operate manufacturing facilities in the country. When spot milk becomes available in the city at low prices, those dealers are willing to buy such spot milk to supply their city distributing business and will divert their regular milk to their country manufacturing facilities. Thus, there is always a large market for spot milk in the marketing area if the price is sufficiently low. The market price for spot milk varies considerably from week to week and month to month. Such variation during the same year has ranged from a price insufficient to cover the class price for the milk plus the cost of transportation to the marketing area to a price yielding a margin for the selling handler of 75 cents a hundredweight over the class price plus transportation.

The order contains provisions (definitions of "pool plant" and "producer") identifying the milk which is within the scope of the pricing and equalization provisions of the order. Such provisions contain the standards and requirements which must be met if the milk is to be considered to be producer milk and therefore priced and pooled under the

order. One of the basic purposes of such provisions is to include in the market-wide pool all of the milk and yet only that milk which is primarily produced for and at all times is available for use in the marketing area. Any plant wherever located may become a pool plant and consequently fully subject to the pricing and equalization provisions of the order by meeting the specified performance requirements. Conditions are specified in the order under which a plant may be expressly designated as a pool plant. A plant may also become eligible for participation in the pool on the basis of shipment to the marketing area of prescribed proportions of its receipts from farmers. Continuing eligibility for pool participation is made contingent upon shipping fluid milk to the marketing area when it is needed to meet marketing area requirements.

Prior to 1945 all milk received from farmers at all plants approved by marketing area health authorities as sources of fluid milk for the marketing area was included in the pool and was therefore class priced at its source under the order. Under that plan there was no problem of unpriced milk, because all milk which was lawfully distributed in the marketing area for fluid purposes as well as all other milk at the plant from which it originated automatically was in the pool and subject to classified pricing at its source. Because of serious weaknesses which developed under this loose plan of pooling, the order was amended in 1945 to limit the pool, insofar as possible, to milk which was primarily associated with the New York fluid market either as regular or reserve supplies and to exclude from the pool milk which was primarily associated with some other fluid market or manufacturing outlet even though it had the health approval of one of the marketing area health authorities. This necessarily left out of the pool, and not subject to class pricing at source, quantities of non-pool milk which could enter the marketing area for fluid use because of its health approval.

The performance standard contained in the order for pool participation recognize and are intended to offset insofar as possible certain inherent weaknesses or disadvantages of market-wide equalization. It was in recognition of such disadvantages that the present pool plant provisions were adopted in 1945. Market-wide equalization largely eliminates the economic incentive which many handlers receiving milk from producers otherwise have for supplying the market with fluid milk since the utilization of the handler's milk is not reflected directly in the price which he pays to his producers. The price received by producers depends upon the utilization of milk by all handlers rather than on the utilization made by a single handler. Market-wide equalization has the further disadvantage of tending to encourage participation in the pool by handlers and producers whose milk otherwise would be and historically has been utilized for manufacturing purposes. Pool participation in such instances is not for the purpose of actually furnishing milk for the marketing area but solely for the purpose of qualifying for equalization payments from the pool as a means of maintaining or increasing their supplies of milk for manufacturing purposes by increasing the return to the farmers delivering their milk to such a plant but at no extra cost to themselves. Such handlers may at times ship milk to the marketing area if such shipments are required as a condition for maintenance of eligibility to receive equalization payments from the pool.

Market-wide equalization also creates a situation under which dealers primarily engaged in furnishing milk for fluid markets outside the marketing area are encouraged to operate in such a way that their reserve supply of fluid milk and their milk supply for other uses becomes subject to the marketing order with market-wide equalization. Such a handler operating a number of country plants attempts to qualify for pool participation only those plants with low fluid utilization while at the same time leaving unregulated the plants from which he obtains his fluid milk requirements. Market-wide pools are also susceptible of being loaded with seasonal surpluses accomplished by qualifying plants for pool participation during the season of high production when the milk is not needed for fluid milk outside the marketing area and by withdrawing plants from the pool during seasons of the year when the milk is utilized for fluid purposes in other markets. It is inconsistent with the basic purposes of the act and the order to consider that a farmer is a producer for whom the minimum class prices should apply if his milk is not available when needed by consumers in the marketing area. Such farmers include those whose milk is not available because it is primarily associated with some other fluid market as a regular or reserve supply for that market and is actually so utilized at times when it is needed in the marketing area. Similarly a farmer should not be a producers under the order if his milk is delivered to a handler utilizing the milk primarily for manufacturing purposes but which is caused by the handler to be approved by marketing area health authorities or to be shipped in token amounts to the marketing area only as a means of claiming equalization payments from the pool on large quantities of milk which the handler continues to utilize for manufacturing purposes even though needed for fluid uses in the marketing area.

When provision is made for market-wide equalization of payments to producers it is essential that the benefits of such equalization accrue only to those farmers who are engaged in the production of a supply of milk which is primarily produced for and always available for use when needed in the marketing area. Otherwise, the money paid by consumers for fluid milk would in part be distributed among farmers delivering milk to plants which do not constitute a part of the regular and dependable supply of milk for the market. Such distribution of the returns from the sale of milk in the marketing area would not be in the best interest of either consumers or producers since the money which is intended to provide producers with an incentive to produce an adequate and dependable supply of pure and wholesome milk for the marketing area would be dissipated through distribution to farmers only incidentally engaged in the business of supplying the marketing area with milk.

At the hearing in this proceeding consideration was given to a number of proposed amendments to the present requirements for participation in the pool. There was no proposal, however, or suggestion made that changes should be made which would result in extending the pool to include all milk received at all plants from which any milk may be disposed of in the marketing area. On the contrary, each of the hearing proposals were to tighten existing pool plant requirements so as to obtain greater assurance that only milk which is produced primarily for the marketing area is to be included in the pool. Such changes, if effected, would intensify the problem of non-pool milk in the marketing area for it would further expand the volume of milk that potentially could enter the area without being subject to pricing and pooling under the order. Although findings and conclusions concerning such proposed modifications to the pooling provisions are being deferred at this time, it is concluded that such proposals would in no way minimize the need for including in the order provisions for payments on non-pool milk.

Having defined producers and pooled milk as heretofore and herein found to be necessary, in a way which does not include all milk which may enter the marketing area, it automatically and inevitably follows that an opportunity exists for the sale of unpriced and unpooled milk in the marketing area since the minimum class prices and pooling established under the order pursuant to sections 8c (5) (A) and (B) of the Agricultural Marketing Agreement Act of 1937, as amended, are applicable only to milk received from producers as defined in the order. Such minimum class prices and pooling do not and cannot apply to milk received from farmers who are not pool milk producers. If that milk which is available and eligible for sale in the marketing area from farmers who are not producers and which consequently is unpriced and unpooled under the order is not regulated in some manner, however, the minimum class pricing and equalization provisions of the order would be rendered ineffective. In the absence of some suitable form of regulation of such unpriced milk there is always an artificial economic incentive for milk from non-producer sources to enter the marketing area and displace milk from producers. Such non-producer milk would be milk which would not have entered the marketing area in the absence of a class price plan but would be induced to come in for use in the relatively high valued fluid outlets solely because of the competitive advantage created for it by the classified pricing and pooling of producers' milk. The exclusion of such milk from the marketing area is not authorized or desirable. The only alternative method or device which has been suggested or proposed for deal-

ing with the situation is to impose a suitable charge on such unpriced milk in an amount sufficient to neutralize, compensate for and eliminate the artificial economic advantage for non-pool milk which necessarily is created by the classified pricing and pooling of pool milk under the order.

It is concluded that provisions in the order for imposing such a charge (compensation payments) on non-pool milk are not only incidental to the provisions establishing class prices and market-wide equalization but are necessary to effectuate such provisions, and are not inconsistent with the terms and conditions specified in sections 8c (5) and 8c (7) of the act. It is further concluded that the rates of payment herein specified are those which are necessary and appropriate to accomplish the purpose indicated.

Having determined that a suitable charge on non-pool milk is needed to place pool and non-pool milk used for fluid uses in the marketing area on substantially similar competitive positions at source, a proper rate of charge or a formula for ascertaining such a rate must be established which will be adequate to accomplish the desired purposes and yet not penalize the non-pool milk. If the charge is to be susceptible of effective administration and not subject to abuse and manipulation, it should, if possible, be based on factors which are readily computable or ascertainable, not within the control of individual handlers, well known to all handlers who might be affected by the charge, and uniform in application to all handlers similarly situated. Analysis of the economic factors concerning the relationship of pool and non-pool milk which enters the market for fluid purposes indicates that it is possible to establish a formula which meets these standards, and which closely approximates the theoretically desirable rate which would be sufficient to offset the artificial advantages in favor of non-pool milk which are created by the basic provisions of the order itself.

A proper compensatory formula should adequately evalute the difference between the class price, at source, which would be charged for pool milk used for marketing area fluid uses (the minuend) and the cost or value, also at source, of the non-pool milk thus used (the subtrahend) The difference should represent the advantage which non-pool milk has over pool milk because of its freedom from classified pricing and equalization at source.

No problem is presented as to the minuend. It clearly and necessarily always must be the Class I–A or the Class II price, depending on the actual use classification of the non-pool milk. That is the class price required to be paid for pool milk at source. The class price should be adjusted, however, for butterfat content and location of the originating plant, just as if that originating plant had been a pool plant.

The establishment of a proper subtrahend presents greater difficulty and requires careful analysis of the different economic factors which apply, at source, to non-pool milk from various sources and at different times. It is apparent that no single subtrahend is suitable for all non-pool milk from all sources at all times.

As stated earlier herein, all milk which is established to be primarily associated with the New York milk marketing area under the standards prescribed by the order is included in the New York pool. Conversely, the non-pool milk which enters the marketing area for fluid use originates from plants which are not sufficiently associated with the New York market to have their milk in the pool. Such plants have their primary interests in other fluid markets or specialized manufacturing uses and frequently have more milk than is required for these primary purposes. It is this surplus milk at non-pool plants which can be "dumped" into the New York market for fluid use, provided only that the plant and the milk has marketing area health approval. The operator of such a non-pool plant has a choice of using the excess milk for surplus uses (ordinarily in the manufacture of various milk products) or of sending it to the New York marketing area for fluid uses. In making this decision he will compare the respective net returns to him for this surplus milk and will naturally select the fluid alternative for it will yield the greater return. In the absence of classified pricing, his cost, at source, for the excess milk remains exactly the same whether he uses it for surplus disposition or for fluid use. The pool plant operator on the other hand has no such advantage for he pays a higher classified price, at source, if he sells the milk in the market area for fluid use (Class I–A or II) than if he disposes of it for surplus manufacturing uses (Class III)

If this artificial advantage in favor of surplus non-pool milk at the plant of origin is to be effectively removed, as it must be, the milk must be treated and evaluated for what it actually is, namely, surplus milk in the milkshed. If New York marketing area disposition were not available for this surplus, the non-pool handler could derive from it only its surplus value. This surplus value is its true value or "opportunity cost" and such surplus value should be used as the subtrahand in the formula for compensation payments on non-pool milk from plants not subject to a Federal order.

The Class III price under the New York order is the class price which is payable, at source, for pool milk under the New York order when used for most surplus uses. It is extremely designed to fix a proper classified value, at source, for surplus milk in the Northeast. The Class III price is the price which can be returned to and which handlers can afford to pay to farmers in the Northeast for so much of their milk as is used for general manufacture. It is therefore a dependable indicator of the value of surplus milk at source. If a non-pool handler, for his own reasons, chooses to pay more than its true market value, at source, for surplus milk which he sends to the New York area, the pool should not underwrite this unnecessary cost, particularly since the premium can be used to outbid pool handlers for milk, as previously shown.

At times, however, when supplies of milk are exceptionally high in the Northeast, the only available alternative outlets for surplus milk, both pool and non-pool, are in the manufacture of butter and cheese. The quantity of milk in the New York pool used in butter and cheese exceeds 15 percent of the quantity in Class I–A and II only when other manufacturing outlets in the Northeast are not generally available for surplus milk and this formula should be used to determine when butter and cheese constitute the available alternative outlets for surplus non-pool milk. At such times the subtrahend should be the class price established by the order for pool milk used for butter and cheese which adequately reflects the value of non-pool milk similarly used in the Northeast.

The only area outside of the Northeast from which there appears to be a probability that unregulated non-pool milk might enter the marketing area is from the Midwest. Here the alternative outlets for milk are the same products as in the Northeast. However, the best indicator or measure of the price paid to the farmer for milk so used in the Midwest as a whole is the Midwestern condensary price. This should be used as the subtrahend in the compensation payment formula applicable to milk originating at such plants.

There is likely to be a general shortage of milk in the Northeast whenever the reserve supply of milk in the New York pool (milk in Class III) is less than 15 percent of the volume of milk utilized in Class I–A and Class II. Should such a shortage develop, some individual handlers in the marketing area might at times during the month experience some difficulty in readily obtaining pool milk to cover their full fluid needs. Moreover, at such times, because of the general shortage of milk, alternative outlets in other fluid markets probably would exist for non-pool milk and the order would not be the means of providing artificial economic advantage for such milk to displace producer milk for fluid uses in the marketing area. Accordingly, there should be no payments on non-pool milk whenever the quantity of pool milk in Class III is less than 15 percent of the total volume of milk classified in Class I–A and Class II.

Milk disposed of in the marketing area for Class I–A or Class II use from plants at which the handling of milk is regulated by another Federal order would be milk for which a minimum class price is fixed under such other order. The price advantage which such milk would have over pool milk priced under the New York order would be the amount by which the class price under the other order is less than the New York order class price at the plant where the milk is received from farmers. Consequently, this amount is the appropriate rate of compensation payment in instances where the other order also provides for market-wide equalization of prices to producers or where the class price established for such milk under the other order reflects its value for manufacturing the same as for surplus milk otherwise disposed of by the non-pool handler.

However, in instances where the other order, as in the case of Order No. 61 regulating the handling of milk in Philadelphia, makes no provision for market-wide equalization and prices such milk at the full Class I or New York Class I–A price, it is essential that provision be made for the economic benefit of such fluid sale to accrue to New York pool producers and for the value of the milk for manufacturing to be returned to producers delivering to the handler under the other order. This result can and should be accomplished by collecting into the New York pool from the handler under the other order the difference between the established class price for milk used for manufacturing and the established class price for milk used for fluid purposes in the New York market. In order that the combined application of the two orders does not result in a total charge for milk disposed of by the other order handler which is greater than the price (Class I–A) required to be paid by a New York pool handler, the payment required to be made by him into the New York pool should be further contingent upon provision having been made in the other order for deducting the amount of such payment from the amount he otherwise would be required to pay to his own producers. Such a provision is necessary to eliminate the incentive which otherwise would prevail for handlers under other orders without market-wide equalization to dump their surplus into the New York pool. This is not merely a potential problem. Plant operators with milk approved for sale both in Philadelphia and in New York already have employed the practice of making token shipments of milk to Philadelphia, thus qualifying the milk for regulation under the Philadelphia order, and of simultaneously making much larger shipments to New York but in amounts insufficient to qualify the plant for full regulation under the New York order. Such a handler has been required by provisions of the Philadelphia order to pay the full Class I–A price for such milk. Such a sale has the same undesirable effects on New York pool producers as previously indicated with respect to fluid sales in the market from completely unregulated plants. The purposes of market-wide equalization under the New York order are defeated by such a practice. Provision for market-wide equalization can be maintained only if sufficient safeguards are provided to prevent distribution of the returns from fluid sales in the market to farmers other than those for whom the minimum class prices are established under the order.

Methods of computing a rate of compensation payment on non-pool milk other than the method herein found to be appropriate were explored and analyzed. Such other methods of computation involved use, as a rate of compensation payment, of the amount by which the class price (Class I–A or II) exceeds (1) the price paid by the receiving handler in the marketing area f. o. b. the market for non-pool milk, (2) the price actually paid to farmers by the handler of the non-pool milk, or (3) the uniform price payable to producers under the order. All of such other methods are rejected as being unsatisfactory and unacceptable, however, because the rates of compensation payment so calculated do not eliminate the artificial economic advantage afforded unpriced incidental supplies of milk over fully regulated producer milk.

The act requires that prices fixed under the order for milk purchased from producers or associations of producers be uniform as to all handlers, subject only to usual adjustments, such as those for butterfat content and location of the milk. The only prices fixed under the order are those for producer milk. Class prices for pool milk under the order are for raw milk, at source, as received from farmers.

No valid comparison can be made of prices to farmers with the necessarily higher prices of milk or milk products at any later point in the marketing process. The prices between dealers must necessarily reflect, in addition to such initial farm level cost or price, subsequent handling costs, such as those incurred in receiving, weighing, testing, cooling, hauling between plants, processing, and selling, as well as profits. Consequently, the compensatory charges do not purport to assure that the cost or price of non-pool milk or milk products, as bought and sold from dealer to dealer, will be no higher than the minimum class prices for raw, unassembled pool milk, f. o. b. initial plant. A handler selling pool milk or milk products could not sell it at levels as low as the minimum class price without loss to himself. Compensatory charges at a rate which would assure a total maximum cost to a handler of only the minimum class price for non-pool milk and milk products received from a non-pool plant would clearly discriminate against pool milk and milk products.

The price actually paid to farmers by the first handler of non-pool milk also is not a suitable or adequate measure for purposes of the compensation payment formula. Such a subtrahend would fail to recognize the true nature of non-pool sales in the marketing area, namely, that they represent the surplus of non-pool plants, and must be treated as such if the payments are to be adequate. Moreover, even if the full Class I–A price were paid to farmers for all milk at the plant of origin the non-pool plant would nevertheless have a marked advantage over an immediately adjacent pool plant which must pay equalization payments into the pool on its Class I–A sales. Without extra cost to himself, the non-pool plant operator can pay as much as the full Class I–A price to his own farmers, whereas the pool plant operator cannot do so because he must pay part of the Class I–A price to the equalization fund for distribution to all producers in the pool. The non-pool plant can thus actually outbid the pool plant for milk by paying more to its own farmers without extra cost to itself. This is particularly true where the non-pool milk originates from a plant which primarily serves other fluid markets and which can send its entire surplus into the New York market for fluid use, thus resulting in 100 percent fluid use of all milk in the non-pool plant. This unfair competitive advantage compels the operator of the pool plant to pay a further premium if he is to retain his milk supply, thus disturbing the price relationships established by the order, creating an unfair initial cost disparity in favor of the non-pool plant and promoting disorderly marketing in the milkshed.

It is also administratively impossible in most cases to determine what was the actual rate of payment to farmers for that part of the non-pool milk at the plant of origin which came into the marketing area as distinguished from the price paid for that part which was disposed of elsewhere, or for other than fluid purposes. Milk at such plants is usually not subject to use classification and audit and is purchased from farmers and paid for it without regard to its utilization. It is not realistic to assume that the purchase price for each use is actually the same.

When non-pool milk originates from a plant which is not subject to pricing and equalization under another Federal order, it is also administratively not feasible to determine what were the exact prices actually paid to farmers for their milk. The various payment plans which might be and are used in paying farmers for non-pool milk would make the determination of pay rates to each farmer an extremely difficult task. Unregulated milk dealers may use varying rates of butter-fat differentials, different types of payment plans, varying premium payments, make varying deductions from all or part of the farmers for various kinds of service and so on. Payments to non-pool farmers also are not subject to audit by the market administrator and are subject to manipulation by an interested handler. Stated prices can be illusory because they may readily be inflated and the excess then neutralized by offsetting overcharges for hauling the milk and for all kinds of supplies and services customarily provided to the farmer. In some cases actual cash rebates might be made but not recorded. If a use classification plan of some kind is employed the farmer may be paid too much for the surplus milk which enters the marketing area and too little for other milk which is used elsewhere. If the non-pool milk originates from the plant of a cooperative it is frequently impossible to ascertain the rate of payment for the milk sold as distinguished from membership profits or losses on operations and plant investment, and frequently a part of the proceeds for milk are distributed to members as a lump sum "dividend" at the end of the year, or may be held back for reinvestment in the cooperative enterprise.

For these many reasons the use, as the subtrahend, of the price actually paid to farmers for non-pool milk is neither administratively practicable nor is it adequate for purposes of the compensation payment formula.

The use of the uniform price under the New York order as the subtrahend for unregulated milk also is not suitable or adequate. As previously shown, the milk in question is actually surplus milk

with a surplus value. If the uniform price were used as the subtrahend it would only partially reduce the advantage in favor of non-pool milk, but would still leave outstanding so much of the advantage as is represented by the difference between the blend price and the surplus value of the milk.

Compensation payments at the rates herein found to be essential should be made on milk classified in Class I–A and Class II since it is milk in these classes for which minimum producer prices higher than those for milk otherwise utilized are established. Milk utilized for fluid cream in the marketing area (Class II) is required by marketing area health authorities to come exclusively from plants approved by them for shipment of fluid milk and other Class I–A products to the marketing area. This situation is recognized under the order by fixing a minimum Class II price considerably higher than the minimum price established for milk used as cream elsewhere. Although the class price for milk used for cream in the marketing area is lower than for milk in Class I–A, it is enough higher than the value at the producer level for surplus utilization outside the marketing area to provide an incentive for non-pool handlers to utilize their surplus non-pool milk for this purpose in the absence of compensation payments.

Non-pool milk so utilized would displace and force into Class III an equivalent amount of producer milk, thus precluding distribution of the returns from sales in the marketing area to those producers relied upon to produce an adequate supply of milk and cream for use in the marketing area.

Non-pool milk may occasionally be received at a country pool plant and be there classified as Class I–A or Class II milk. Such transactions present substantially the same problems as a direct marketing area receipt and should similarly be made subject to compensation payments.

The considerations which require that compensation payments be made on Class I–A and II non-pool milk distributed in the marketing area apply with equal force to non-pool skim milk which is used or distributed in such manner as to have been subject to the fluid skim differential had it been from pool sources. Since this differential is itself the difference between skim milk for fluid use and skim milk for manufacture, the full differential should be applied on such non-pool skim milk.

In addition to milk from known non-pool sources, suitable payments must also be required on milk for which the source is not established. Such milk, in the absence of evidence to the contrary, must be presumed to be milk for which no payment has been made, at source, either to producers or to non-pool farmers. Consequently, the rate of payment which must be required on such milk is the full amount of the minimum price established for producer milk in the class in which it is utilized.

The payments on non-pool milk and on milk from unestablished sources should be added to the producer settlement fund and distributed to producers as a part of the uniform price which pool handlers are required to pay to producers. As previously indicated in this decision, it is not the primary purpose of compensation payments to compensate pool producers for a lost sale. However, when non-pool milk is distributed in the marketing area as Class I–A or II milk an equivalent quantity of pool milk is displaced from these classes and falls into the lowest valued surplus class utilizations then in the pool, usually that for butter and cheese. The compensation payments do not purport to restore to the pool the full amount of such displacement loss. Thus, the amount of the charge on milk from unregulated non-pool sources is ordinarily only the difference between the Class I–A or II price and the Class III price—rather than the price for butter and cheese. Likewise, when the non-pool milk is from a source at which the milk is adequately priced and pooled under another Federal order, the charge is only the difference between the fluid class prices under the two others and not the much greater charge which would have to be obtained if the displacement loss to the pool were to be fully recovered (Class I–A minus butter—cheese)

The fact that this displacement loss to the pool does occur whenever non-pool milk is used in Class I–A or II does, however, provide an additional reason for imposing some charge on the non-pool milk and clearly justifies the addition of such payments to the common pool as partial compensation for the displacement loss suffered by the pool. It is highly important that this displacement loss to the pool be compensated for to the fullest extent possible, consistent with the primary reasons for compensation payments previously stated in this decision. A fundamental purpose of the order is to fix a schedule of prices for pool milk which will (1) insure that a sufficient and dependable supply of quality milk will be available for Class I–A and Class II needs of the market, and (2) be in the public interest. To the extent that such sales are displaced through the disposition of surplus milk from unpriced sources, producers lose income from sales in the market which they are expected to supply. Producers would not realize the income from the sale of their milk which the order is designed to provide at the class prices established. Such loss of income unless otherwise compensated for would necessitate higher class prices, at the ultimate expense of consumers. Otherwise, the maintenance of an adequate supply of milk for the market would be jeopardized. The addition of compensation payments to the producer settlement fund is an appropriate method of compensating, insofar as possible, producers relied upon to supply the market for a loss of income which they would otherwise incur. Such disposition of the funds does not constitute a means of returning more to producers than contemplated at the class prices established under the order since no compensation payments are required to be made when supplies of producer milk are not sufficient to meet market requirements in uses to which compensation payments apply. An additional reason for adding compensation payments to the producer settlement fund is that no alternative disposition of such funds is suitable, feasible, or authorized under the act.

There remains the question of proper incidence of the payments. If the operator of the non-pool plant is the same person who distributes the milk in the marketing area, he clearly should make the payment. Where the source is not established, the charge necessarily must be imposed on the order handler in whose possession it is found. However, much of the non-pool milk on which payments are required is handled by more than one handler, and it is necessary that provision be made in the order specifically identifying the handler on whom the obligation to make the payment is imposed. From the standpoint of the economics involved, the incidence of the charge makes no difference since the amount of the payment is the same regardless of who makes it. From the standpoint of administration and enforcement, however, it is much easier and simpler for the payment to be made by the regulated handler operating the pool plant outside the marketing area or by the handler operating a plant in the marketing area, depending upon whether the non-pool milk is first received at a pool plant or is received directly from a country non-pool plant at a plant in the marketing area.

It is these handlers with whom the market administrator regularly deals. Such handlers would be expected to know and understand the terms and provisions of the order. It is these handlers who would be responsible for distributing the milk or milk products in the regulated market. Making the operator of the pool plant responsible for compensation payments also results in minimizing such payments since producer milk is first assigned to Class I–A and Class II milk at the plant. Where milk is shipped directly from a non-pool plant to a plant in the marketing area, it is the handler operating the plant in the marketing area who should make the payment.

The purchasing handler, being in direct contact with the order and aware of its provisions, can readily protect himself against double payment by deducting the known compensatory charge from the price he otherwise would pay for non-pool milk; and it is contemplated that a reasonable person will do so in the circumstances. This procedure will result in his paying, for the non-pool milk, its market value as surplus and paying to the pool the difference between its fluid and its surplus values. The non-pool source will thereby receive the true value of the non-pool milk, namely, its surplus value, thus achieving the purpose of the compensation charges. A marketing area handler who pays more than its full value for the non-pool milk, or who fails to take into consideration the charge to the pool has paid too much to the non-pool seller of the milk. His position is no different than if he had paid too much, i. e., more than other handlers, for pool milk similarly purchased, because of poor business judgment or other reasons.

It might appear that the charge should more properly be imposed at source because it is intended to prevent undue advantages for non-pool milk at that level of marketing. Such a plan would present serious administrative and practical difficulties. The non-pool plant (source) operator might not be aware that a compensation payment is required until long after the sale has been consummated. He might not even know at the time of the sale, particularly if made through a broker, that his milk was being moved to the New York market for distribution. In some cases the milk or milk product may be resold several times before entering the New York market, so that the first plant operator would have no control over its disposition. In such circumstances it would be unequitable to charge the originating handler. Moreover, if enforcement proceedings were to be required, it would be more convenient and logical to bring the action in the area of the regulated market where the problem arose. Where distribution is made on wholesale or retail routes in the marketing area from the non-pool plant without going to a plant in the marketing area, there is, of course, no alternative to imposing the charge on the operator of the non-pool plant.

The compensation payments herein provided will not prohibit the marketing of milk nor limit the marketing of milk products from any production area of the United States. The rates of payment required are uniform rates subject only to adjustment resulting from application of the same transportation differentials used in adjusting minimum producer prices to reflect distance from the market of the plant at which the milk is received from farmers.

The quantity of milk and milk products which may be sold in any regulated market is dependent to a considerable extent upon the price fixed under the order for the particular class of utilization. Such influence should not be construed, however, as a limitation of the type precluded under the act. No price can be fixed without influencing, to some extent, the quantity of milk and milk products which may be sold from either regulated or unregulated sources. No quantitative limitations are imposed under the order on the amounts of unpriced milk which may be disposed of in the marketing area nor do they prohibit such use or any other use of unpriced non-pool milk or milk products. The compensation payment herewith provided will not discriminate against producers by areas, nor deprive suppliers of unpriced milk of a high priced market which they would otherwise enjoy. Rather the payments tend to maintain the natural economic advantages accruing to specific plants and farmers by reason of such economic factors as location, quality of milk and efficiency of operation. Without such payments regulated milk would be at a distinct competitive disadvantage compared to unpriced milk similarly located. Without such charges the order would tend to limit and reduce the marketing area sales of pool milk which in the absence of regulation for the market would be thus sold and utilized. The balancing compensatory charge removes the artificial advantage created which otherwise exists for non-pool milk. The net effect is to preserve insofar as possible the balance which would prevail with respect to milk from various sources in the absence of an order.

It is necessary in seeking an overall solution to problems of this nature to adopt provisions which will be reasonable and be liberal as possible, and at the same time will still guarantee the integrity of regulation. Commerce in milk is entirely at the option of handlers. They are free to complete only those transactions which are most favorable to themselves. Order provisions must recognize this fact. They must recognize, also, that the varying conditions under which milk transactions occur give rise to great complexity in the regulatory problem and that, at times, individuals may be inconvenienced or even suffer hardship by reason of provisions necessarily adopted for the common good of the public and the industry at large.

Issue No. 2. Consideration was given at the hearing to changes which should be made in the order relative to the pricing and pooling of milk which is assembled from farms by transferring the milk in bulk directly from a farm tank to a tank truck, such milk commonly, and herein, referred to as bulk tank pickup milk. It is concluded that the order should be amended primarily to accomplish two basic objectives (1) to provide for pricing bulk farm tank pickup milk on f. o. b. farm basis, and (2) to provide a means of determining the times and circumstances under which pool tank pickup milk is to be considered to be pool milk and when it is to be considered as non-pool milk. Numerous changes in the order appear to be necessary for the accomplishment of these purposes.

There is at present only a relatively small volume of bulk tank pickup milk in the New York milkshed. At the time of the hearing there was only one tank pickup route in operation, a 350 can tank which in April 1953 was picking up about 310 cans of milk from 17 farms located in the counties of Columbus, Duchess, Rensselaer, and Ulster. This truck was traveling a round trip distance of about 400 miles daily including the pickup from farms and delivery to a plant in the marketing area. Additional routes are either in process of formation or under consideration. Even though the bulk tank pickup method of assembly has developed only to a limited extent, the adoption of order provisions applicable to milk so handled appears desirable at this time before substantial investments are made by handlers, farmers and truckmen. Order provisions should not be such as to constitute artificial economic incentives either for expansion or restriction of bulk tank pickup operations.

There appear to be several reasons justifying establishment of minimum producer prices f. o. b. the farm for bulk tank pickup milk. When milk is picked up at the farm with a tank truck it is at that point that the milk is weighed or measured and samples are taken for butterfat testing. It is at the farm that the milk is either accepted or rejected, and when accepted, it is immediately intermingled with the milk of other producers. These actions occur at the country plant in the case of milk received from farmers in cans. In this respect the tank truck becomes or takes the place of the country plant. The farm, rather than the country plant, becomes the point from which the producer's milk is susceptible of being moved much longer distances than considered practicable in the case of milk received in cans. The tank truck method of transportation directly from the farm makes it possible to move the milk from any part of the milkshed directly to pasteurizing and bottling plants in the marketing area or elsewhere in the same manner as milk is commonly moved by tank truck from a country plant. Bulk tank pickup milk may also be moved directly from the farm either to a pool or non-pool plant and there utilized for other than fluid purposes. Under such circumstances the prevailing practice of establishing the minimum prices f. o. b. the plant where first received from farmers could produce somewhat different results than obtained with respect to milk received in cans at country plants. Application of that principle to bulk tank pickup milk delivered directly to a marketing area plant would make the producer of that milk, irrespective of his location, eligible for the maximum transportation and location differentials which are applicable to milk received from producers at plants in the marketing area. Such differentials now apply only to farms located relatively close to the marketing area since it is only from such nearby areas that milk is moved directly from the farm to a plant in the marketing area. There is no basis on which to conclude that existing location differentials were designed to apply to milk originating on farms farther from the market than those from which it is feasible to transport milk in cans.

Pricing bulk tank pickup milk f. o. b. the plant where first received would have the additional weakness of creating a situation under which the special location differential could readily accrue, in whole or in part, to the handler rather than to the producer. For milk moved from farms located substantial distances from the marketing area, the cost of transportation from the farm to the handler's plant in the marketing area would be relatively high in relation to the price established for the milk. If a producer now delivering to a plant in the 201–210 mile zone became a member of a bulk tank pickup unit and his milk was moved directly to a plant in the marketing area, he would become eligible under the present provisions of the order for a location differential of 30 cents per hundredweight out of the pool. The transportation charge from his farm to the plant in the marketing area would be a matter of negotiation between the producer and the handler or trucker. It seems probable that such a transportation charge would be an amount sufficiently large to permit absorption of the entire amount of the location differential and still leave the producer with a price, after deduction of the transportation

charge, as high as he would receive if he continued to deliver his milk at a nearby country plant.

Establishment of producer prices f. o. b. farm for bulk tank pickup milk also is necessary in order for transportation differentials to continue to reflect price differences properly associated with distance from the market. For bulk tank pickup milk, the freight zone established for the plant where the milk is first received will not represent, as is the case for other milk, the approximate distance from market of the farms on which the milk is produced. Furthermore, bulk tank pickup milk may be delivered to two or more different plants during a given month or part of the tank may be delivered on the same day to one plant and part to another plant. Since the milk of individual producers is intermingled at the farm, it would be extremely difficult to determine the price due each individual producer based on the location of the plant at which his milk was received.

Consequently, the order should be amended to provide for determination and public announcement by the market administrator of a freight zone for each county in which there is located the farm tank of a producer of bulk tank pickup milk. Such a freight zone for the county should be a zone calculated on the basis of the average distance of all pool plants located in the county as of the effective date of the amendments herein recommended. The freight zone for a county in which there is no pool plant should be computed as if there were a pool plant located at the county seat. An alternative suggestion made at the hearing was that the freight zone for producers of bulk tank pickup milk be the same as the zone for the nearest active pool plant as of a specified recent date. Inherent in this plan, however, is the possibility of controversy as to which is the plant nearest each individual farm and other patented administrative complications. It is concluded that the use of a freight zone for the county will minimize the administrative problems involved and adequately serve the purpose of reflected differences in the value of milk which are associated with the location of farms in relation to the marketing area.

One of the major problems associated with bulk tank pickup milk is to provide a means of determining the circumstances under which such milk is to be considered pool milk. This is necessary in order to identify the milk for which minimum prices are established under the order and to prevent the shifting into the New York pool of the seasonal surplus of other markets in a manner which the pool plant provisions of the order are designed to preclude. For this purpose, it is proposed to add §§ 927.12 and 927.13 defining "tank pickup unit" and "pool tank pickup unit." Such definitions are designed to serve substantially the same purposes with respect to bulk tank pickup milk as are now served with respect to other milk by the present definitions of a "plant" and "pool plant." In addition, it is proposed to add new §§ 927.28 and 927.29 setting forth conditions under which bulk tank pickup milk may be considered to be pool milk.

Section 927.28 *Pool tank pickup units delivering Class I–A milk to the marketing area* sets forth the conditions under which bulk tank pickup milk is to be considered to be pool milk on the basis of shipments directly or through other plants to a plant or purchaser in the marketing area. Such provision is designed to serve the same purpose as present § 927.27 with respect to plants shipping Class I–A milk to the marketing area.

Section 927.29 *Reserve pool tank pickup units* sets forth the conditions under which a tank pickup unit may be determined to be a reserve pool tank pickup unit. This provision is necessary in order to permit participation in the pool of regular market supplies which at certain times are not shipped to the marketing area. This provision with respect to bulk tank pickup milk parallels §§ 927.21 through 927.26 applicable to other milk.

The definition of "producer" should be expanded to include a dairy farmer who is a participating member of a pool tank pickup unit as defined. This definition, however, is intended to exclude a farmer whose milk is delivered by tank truck to a pool plant unless his milk is a part of a pool tank pickup unit. Similar change is necessary in the definition of "handler" so as to include a person who receives milk from members of a tank pickup unit.

Provisions of § 927.33 relating to the plant at which classification is to be determined should be amended to provide that milk received on a tank pickup unit (1) and shipped to a plant in the marketing area shall be considered to be a shipment from a plant outside the marketing area, (2) that such milk delivered to a plant within the territory specified in paragraph (e) of that section shall be classified at such plant, and (3) that such milk delivered to a plant outside the territory specified in paragraph (e) shall be considered to have been shipped more than 65 miles to such plant from the plant at which it was received from producers. These changes are necessary in order to indicate specifically the plant at which classification of pool tank pickup milk is to be determined, and to insure substantial uniformity in treatment of tank pickup milk and other milk.

Section 927.43 relating to the butter-cheese adjustment should be amended to make the adjustment set forth in the last proviso thereof applicable to milk received on a pool tank pickup unit. Otherwise, there would not be uniformity among handlers for milk received at plants and on tank pickup units in the distant zones.

Sections 927.50 and 927.53 relating to monthly reports and other reports should be amended to require handlers to report substantially the same information concerning the receipt and disposition of milk on tank pickup units as is now required with respect to receipts at plants. Otherwise, reporting requirements would be incomplete.

Section 927.60 relating to the net pool obligation of handlers should be amended to include milk received from producers who are members of a pool tank pickup unit, together with that of other producers, in computing the handler's net pool obligation. Otherwise, such obligation would be incorrectly computed.

Section 927.66 providing for adjustment of the uniform price paid to producers through application of transportation and location differentials should be amended to require such adjustments on payments to producers of milk received on a pool tank pickup unit. This section makes producers whose farm tanks are located within the marketing area eligible for the same location differential as producers whose milk is delivered directly in cans to a plant in the marketing area. Producers who are members of a pool tank pickup unit would be eligible for the 20 cent location differential whose farm tanks are located in one of the specified counties in the location differential area or operate farms from which milk previously was delivered (during any part of the year before transfer to a tank pickup unit) to a plant at which the location differential was payable. This provision is designed to avoid payment of the location differentials to any significant number of farmers on bulk tank pickup units who otherwise would not be eligible, and also to avoid denying payment to those who otherwise would be eligible.

Section 927.80 should be amended to require payment of the administration assessment on milk received from producers who are members of a pool tank pickup unit at the same rate as on milk received from other producers.

Issue No. 3. The order should be amended to clarify and eliminate the possibility of misunderstanding with reference to the definition of a plant and related duties and functions of the market administrator. It was indicated that the present provisions are susceptible of different interpretations. The changes proposed (proposals Nos. 21, 22, and 23) were for the purpose of making it clear that application of the plant definition by the market administrator is not contingent upon first having notified the handler of his determination as to what constitutes a plant and its equipment except in instances where there is a revision by the market administrator of a prior determination of which the handler has been notified, and that the order imposes no duty upon the market administrator to notify handlers of his determinations under the plant definition except upon receipt of written request therefor received from a handler. The accompanying amendments hereinafter set forth to §§ 927.8, 927.18 (j) and 927.54 are designed to accomplish those purposes.

There was considerable discussion on the record of the prospect of administrative complications and potential controversy concerning that part of proposal No. 22 under which § 927.18 (j) would be expanded to make the duties imposed on the market administrator apply to written requests received from persons other than handlers. In view of these potential difficulties and because there was no showing of the necessity for such a re-

quirement, it is concluded that the order should not be amended to impose specific duties on the market administrator with respect to inquiries received from persons other than handlers. Failure to include such a specific provision, however, does not preclude persons other than handlers from obtaining such information as is available concerning determinations which have been made as to whether or not a plant exists at a specified location.

Issue No. 4. Proposal No. 31 of the notice of hearing was to deal with the administrative problems experienced in determining compliance with existing provisions of the order (§ 927.40) under which handlers are required to pay minimum class prices for milk received from cooperative associations of producers. It was demonstrated that the proposal was confined to only one aspect or fragment of the problem involved. The proposed procedure for determining whether or not minimum class prices had been paid would apply only to transactions covered by a written contract. It was also indicated that adoption of the proposal might readily create additional administrative problems including the interpretation of inter-handler contracts and whether or not the market administrator would become involved in enforcement of contracted obligations between handlers to pay items other than class prices.

An alternate proposal, made for the first time at the hearing, was to eliminate from the order the second sentence of § 927.40 under which a time limit is established for the payment of minimum class prices to a cooperative association which is also a handler. It appears that the effect of this proposal would merely be to eliminate the currently specified time in which payment must be made, a result more limited than the intended purpose of the proposal. The record indicates considerable uncertainty as to the extent, if any, to which the requirement for payment by handlers for minimum class prices to cooperatives would be changed by adoption of the proposal, and also some question as to whether the alternate proposal is within the scope of the hearing notice. Accordingly, it is concluded that neither the proposal contained in the notice nor the alternate proposal made at the hearing should be adopted.

Issue No. 5. Section 927.32 of the order should be amended to permit handlers to obtain a refund of the difference between the Class II and Class III prices, applicable for the month in which the milk is received from producers, when such milk is held in the form of cream longer than the period for establishing classification if claim for such refund is filed by the handler together with evidence of disposition of the cream outside the marketing area in a manner under which it would have been eligible for classification in Class III in the first instance pursuant to § 927.37 (e) (1) if it had not been held longer than the period for establishing classification. Such opportunity for refund, however, should not apply to cream utilized in the marketing area since to do so would tend to render inoperative the procedures and safeguards now associated with the verification of claimed uses of cream in the marketing area. Provisions of the order for the classification in Class III of cream stored in licensed cold storage warehouses appear to provide ample and appropriate opportunity for classification in Class III of cream held beyond the period for establishing classification for use in the marketing area.

It is concluded that the ultimate charge to the handler for such milk at the Class III price should be effectuated by the process of making a refund rather than by reclassification, thus avoiding a complete reapplication of the accounting procedure relative to assignment of classifications between handlers and between pool and non-pool milk. Reclassification would involve unnecessary administrative complications.

It is further concluded that it is not necessary to impose the same time limit for the filing of such claims for refund as is imposed in connection with claims for storage cream payments. Storage cream payments are contingent upon evidence of use in a particular product or form, whereas in this instance it is necessary only for the market administrator to determine that the cream was finally disposed of outside the marketing area. Accordingly, under the recommended amendment, the time for filing claims for refund would be limited only as set forth in § 927.85.

Issue No. 6. The order should be amended by deleting from paragraph (c) of § 927.50 the requirement for submission of a signed statement of the operator of a non-pool plant at which disposition of milk is claimed by the reporting handler as the basis of classification. Such requirement no longer serves any essential purpose.

Issue No. 7 Section 927.35 of the order (accounting procedure) should be amended virtually as set forth in hearing notice proposal No. 28. The words "which is classified as Class I–B or I–C" appearing in the proposed paragraph (b) of proposal No. 28, however, should not be included in the amended provision since to include such language would constitute a change not shown to be justified. Inclusion of these words in the proposal was shown to be inadvertent.

Under existing provisions of § 927.35 (b) and (c) the procedure for assignment of whole milk receipts to classifications of whole milk shipments at plants where there are receipts both from pool and non-pool sources has been unduly complicated in many instances. Adoption of the proposal to provide for proration of whole milk receipts against whole milk disposition in terms of pounds of whole milk before receipts of whole milk are prorated to other products will constitute a less complicated procedure for arriving at the same result as at present, and will tend to facilitate the mechanics involved in interhandler settlements for milk.

Issue No. 8. No amendment should be made in § 927.38 (e) of the order for the purpose of limiting the territory within which milk and cream may be classified at plants other than those from which the milk or cream is shipped. The evidence indicates that the present provision has tended to facilitate the economical disposition of pool milk for other than fluid purposes, and provides no basis for restricting the extent to which milk and cream may now be classified at plants in the territory surrounding the milkshed.

Issue No. 9. Evidence in the record does not justify any change in the fluid skim differential either with reference to the skim milk to which the differential should be applied or as to the amount of the differential. The proposal contained in the notice of hearing was to make the fluid skim differential at the present rate applicable not only to skim milk disposed of in the marketing area in the form of milk, fluid skim milk, and cultured milk drinks but also to skim milk utilized in such forms outside the marketing area. Modifications of the hearing notice proposal were presented at the hearing including a proposal to apply the fluid skim differential to skim milk disposed of to food processing plants within the marketing area or under some circumstances to skim milk not shown to have been disposed of outside the marketing area for other than fluid purposes. The evidence submitted concerning these various proposals was little more than exploratory in nature and does not constitute an adequate basis for determining precisely what changes, if any, should be made in the amount or application of the fluid skim differential.

Companion proposals relating to the plant with which classification of skim milk would be determined for purposes of application of the fluid skim differential were also contained in the hearing notice but their adoption is unnecessary unless the fluid skim differential is applied to fluid skim utilization outside the marketing area.

Issue No. 10. The issue considered at the hearing was what changes, if any should be made in the classification and pricing of all or certain portions of the milk utilized in fluid form (fluid milk, concentrated fluid milk, fluid milk products, and cultured or flavored milk drinks) outside the defined marketing area. Such milk sold in other Federally regulated markets is now classified in Class I–B and priced the same as milk for fluid use within the marketing area (Class I–A). Milk sold outside the defined marketing area and outside other Federally regulated markets is now classified in Class I-C and priced at 20 cents over the blend or uniform price.

Although technically within the scope of the hearing, the classification and pricing of milk now classified in Class I-B was given only superficial and incidental consideration at the hearing. Accordingly, it is concluded that no change should be made in such provisions. Primary consideration was given at the hearing to the classification and pricing of milk which is now classified in Class I-C. For purposes of this decision and for reasons hereinafter set forth, the milk now classified in Class I-C is divided into three separate categories as follows:

(1) Milk disposed of within the State of New York outside the marketing area;

(2) Milk disposed of in Northern New Jersey· and

(3) Milk disposed of in other areas.

It is concluded that as to the milk in categories 1 and 2, a decision on changes in the classification and pricing provisions of the order should be deferred pending further consideration, and as to milk in category 3, the minimum price established under the order should be changed to the price established for Class I–A milk. This price change should be accomplished by revision of the Class I–B definition to include such milk.

The principal markets where Class I–C milk is now sold have long relied for a substantial part of their fluid milk requirements upon sources of supply which, upon issuance of the order in 1938, became regulated under the order. Instead of including such markets in the defined marketing area under the order as originally promulgated, special pricing provisions were adopted recognizing the historic dependence both of such markets and the defined marketing area, upon a common source of supply. When the order was first made effective in 1938, milk now classified as I–C milk was unpriced. Beginning on March 1, 1941, such milk was priced at 20 cents over the price established for milk used for fluid cream in the marketing area (Class II–A) Since July 1, 1941, the price established for Class I–C milk has been the uniform price plus 20 cents.

The pricing of milk sold outside the marketing area, as defined, is a problem which not only was considered during promulgation of the original order in 1938, but which has been considered on several later occasions at public hearings on proposals to amend the order. The problem as presented at this hearing, insofar as the pricing of milk disposed of in Upstate New York and Northern New Jersey is concerned, is one which cannot properly be decided independent of other issues on which public hearings have been held. Such other issues include revisions of transportation and location differentials and the question of whether minimum producer prices should be established under Federal regulation for all milk produced for Northern New Jersey. These are issues on which public hearings have been held but on which decision has been deferred pending further consderation. Since these issues are directly associated with the pricing of I-C milk in Upstate New York and Northern New Jersey, a decision on that question likewise is being deferred.

For the past 4 years, the Class I-C price has been lower than the Class I-A price by amounts ranging (on an annual average basis) from 66 cents (in 1952) to 93 cents (in 1949). The differences were smaller prior to 1949. By months in 1952 the Class I-A price exceeded the Class I-C price by varying amounts ranging from 54 cents in February to 84 cents in March. During the last 5 years the Class I-C price has averaged $1.33 higher than the Class III price and 63 cents higher than the Class II price.

Ever since the order has been in effect substantial quantities of milk have been utilized in Class I–C. The annual volumes of Class I–C milk have varied some from year to year ranging since 1942 from a low of 372 million pounds (in 1948) to 528 million pounds (in 1952) Prior to 1948, the years of highest volume were 1946 with 500 million pounds and 1948 with 508 million pounds. Annual percentages of pool milk used in Class I–C have ranged from about 6 percent in 1942 and 1949 to about 9 percent in 1943 and 1946. During the past 3 years the percentages have been 7.0, 7.6, and 7.4, respectively.

Substantial volumes of Class I–C milk are sold in each month during the year. Highest volume months usually are July and August while lowest volume months usually are April and May. In 1952 the volume varied from about 27 million pounds in May to 62 million pounds in July.

The various categories (as herein set forth) of Class I–C milk are distinguished by differences in the competitive factors and marketing conditions related to sale of such milk in the various markets where it is sold. Such differences were recognized by many of the principal witnesses who testified at the hearing. By far the largest market for Class I–C milk is, and always has been, Northern New Jersey. Sales of Class I–C milk in Northern New Jersey have constituted over 40 percent of the total consistently over the 15-year period in which the order has been in effect. Such sales were 44 and 47 percent, respectively, of total Class I–C sales in 1951 and 1952. Next to Northern New Jersey, the largest proportion of Class I–C sales is in the State of New York, with such sales accounting for about 35 percent of the total. About 20 percent of all Class I–C sales are in the six New York counties nearest the marketing area. The balance of the Class I–C sales (aggregating about 18 percent of the total in 1952) are in other areas, principally southern New England and Pennsylvania. Some Class I–C sales were made in 1952, however, in areas farther South, including Washington, D. C., North and South Carolina and Florida.

In the markets of Upstate New York, where over a third of the Class I–C milk is sold, virtually all competition is with milk from unregulated sources. For other milk sold in such markets there are no minimum producer prices established by either State or Federal regulation. Minimum producer prices are established under marketing orders of the State of New York for the Rochester and Niagara Frontier marketing areas but no Class I–C milk is sold in such areas. Dealers in Upstate New York markets pay producers for milk on the basis of the uniform price established under the New York order. Most of these markets are located in the area from which the New York metropolitan milk marketing area draws its milk supply. Abundant supplies of non-pool milk are available for these markets at prices approximating, and closely related to, the New York uniform price. Dealers in most Upstate New York markets are at liberty either to purchase milk from nearby pool plants (Class I–C) or from completely unregulated sources. Premiums in amounts not to exceed 20 cents per hundredweight over the uniform price appear to be sufficient to induce farmers to transfer directly from pool plants to local unregulated dealers as a means of augmenting short season supplies from local farmers from whom the dealer regularly buys milk or to expand regular volume in the local market.

In some Upstate New York markets Class I–C milk constitutes a relatively small proportion of the total fluid sales in the market. In others, however, particularly in the six New York counties nearest the marketing area where about 55 percent of the total I–C milk sold in Upstate New York was sold in 1952, the volume of Class I–C milk constitutes a substantial proportion (ranging up to 70 percent) of the total fluid milk requirements.

The conditions in Northern New Jersey also differ materially from most of the other markets in which Class I–C milk is sold. The fluid milk consumed in Northern New Jersey is obtained from three types of sources: (1) Milk from farmers located within the State of New Jersey and for which minimum producer prices are established by the New Jersey Office of Milk Industry; (2) milk from plants and farmers located outside the State of New Jersey and for which no minimum prices to producers are established either by State or Federal regulation; and (3) milk from various New York order pool plants which is classified and priced under the order at the Class I–C price.

About 50 percent of the milk sold for fluid use in Northern New Jersey now comes from New Jersey producers. During the period 1940–1951 the volume supplied by New Jersey producers increased about 20 percent. Total sales of fluid milk in Northern New Jersey increased about 44 percent during the same period, however, with the result that the proportion of the total supplied by New Jersey producers declined from over 61 percent in 1940 to about 50 percent in 1951.

About 60 percent of the remainder of the Northern New Jersey fluid supply (about 30 percent of the total) is obtained from plants or farmers outside the State of New Jersey and for which no minimum producer prices are established by either State or Federal agencies. The plants are scattered throughout a large part of the territory in which New York pool plants are located. Substantially all of the milk received from farmers at such non-pool plants is used as fluid milk primarily in Northern New Jersey but in some instances for fluid use elsewhere. The farmers delivering milk to such plants, however, usually are paid a price approximating the New York uniform price rather than a price reflecting its high fluid utilization. During the period from 1940 to 1951 the volume of this milk from unregulated sources outside the State of New Jersey which comes into Northern New Jersey for fluid use has increased 277 percent. Such unregulated milk as a proportion of the total Northern New Jersey supply has increased from about 11 percent in 1940 to about 30 percent in 1951.

The balance of the fluid milk consumed in Northern New Jersey comes from New York pool plants (I–C) Milk from this source constitutes about 40 percent of that part of the supply which comes from outside the State of New Jersey and about 20 percent of the total volume of fluid milk consumed in Northern New Jersey. During the period 1940–1951 the volume of I–C milk sold in Northern New Jersey increased about 5 percent. As a proportion of the total, however, the volume of I–C milk declined from about 29 percent in 1940 to approximately 20 percent in 1951. Class I–C milk as now priced has lost ground in relation to other sources of supply for Northern New Jersey particularly in relation to milk from unregulated sources purchased from farmers at a price approximating the New York order uniform price but for which no official minimum producer price is established.

Opponents of proposals to increase the Class I–C price contend that such action would not result in a higher return for milk to New York pool producers or to other farmers and that it would contribute nothing toward more orderly marketing in the markets in which I–C milk is sold. The arguments appear to be particularly pertinent insofar as Northern New Jersey is concerned.

The remainder of the Class I–C milk (other than for Upstate New York and Northern New Jersey) is sold primarily in markets where much larger proportions of the competing supplies of milk are subject to minimum producer prices established either by a State agency or under another Federal order. Class I prices established by State agencies in New England and Pennsylvania are usually as high as the New York Class I–A price, and the price established under other Federal orders for milk sold in the markets where I–C milk is sold is generally the same as for milk for fluid use in the marketing area defined in such other orders.

Only about 18 percent of the total volume of Class I–C milk in 1952 was sold in markets outside of Upstate New York and Northern New Jersey. Such sales were less than 1.5 percent of the total receipts from producers in 1952, but nevertheless constituted a rather substantial proportion of the total sales in some of the markets where Class I–C milk was sold. Next to Northern New Jersey and Upstate New York, Connecticut was the most important outlet for I–C milk in 1952. While milk so utilized constituted less than 0.7 percent of the volume of New York pool milk, it amounted to between 5 and 10 percent of the fluid milk sales in Connecticut. Approximately 75 percent of the milk supply for Connecticut came from farmers in Connecticut and thus was fully subject to minimum producer prices established by the State of Connecticut. Another 10 to 12 percent of the supply was received by Connecticut dealers directly from farmers located outside the state but for which payment was made on a basis comparable to that applicable within the state. Unlike Northern New Jersey and Upstate New York Class I–C milk sold in Connecticut is not sold in competition with major portions of the supply purchased at prices substantially below the Class I–A price.

While data in the record does not afford a basis for precise calculation of the relative volumes of various sources of milk in other markets where Class I–C milk is sold, it is apparent that nowhere else in the Northeast are there volumes of unregulated milk comparable to those sold in Upstate New York and Northern New Jersey. Substantial proportions of the supply for most other areas in the Northeast, including New England and Pennsylvania, come from sources which are subject to regulation either by State agencies or under other Federal marketing orders.

The pricing of milk at the Class I–A level which is now classified in Class I–C and disposed of outside New York and Northern New Jersey will not necessarily protect such outside markets from the competition of out-of-state milk. Supplies of milk may be available which are not subject to State or Federal regulation. The Class I–A price established under the New York order applies only to milk received from producers as defined in the order.

Testimony was presented at the hearing concerning a proposal to establish a price of Class I–C milk in the short production months somewhat higher than the Class I–A price. This proposal was a part of an integrated plan designed either to compensate the New York pool for the cost of carrying the surplus for outside markets or to encourage milk to leave the New York pool and to carry with it the associated surplus. The amount of added return to the New York pool on the small part of the Class I–C milk which is sold in the areas outside of New York and Northern New Jersey would not materially affect the total returns under the New York pool. Since no decision is being made at this time with respect to the other parts of the integrated plan, prices for fluid milk sold in those areas outside of New York and Northern New Jersey should not at this time be set at a level higher than for Class I–A milk.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for milk, in the marketing area and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Rulings. The briefs filed by interested parties contained statements of fact, proposed findings and conclusions, and arguments with respect to the provisions of the proposed amendments. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that the findings and conclusions proposed in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the conclusions in this recommended decision.

On May 14 and 19, 1953, public announcements were made by officials of the United States Department of Agriculture and the New York State Department of Agriculture and Markets to the effect that a committee was being appointed to study and make recommendations with respect to current problems in the New York milkshed, including the subject matter of Issues 11 and 12. The announcements also stated that judgment was being deferred temporarily on the procedure to be followed on the problem of pricing milk sold outside the marketing area (Issue No. 10).

Interested parties thereafter filed motions requesting that the issues which had been referred to the committee be severed from the remaining issues considered at the hearing; that no action be taken with respect to such severed issues until the committee had reported; that the hearing be reopened following such report; and that the briefing time with respect to such issues be extended accordingly. The motions also requested similar handling of Issue No. 10 pending further clarification of the procedure to be followed concerning such issue.

On May 28, 1953 (18 F. R. 3174) the Presiding Officer granted an indefinite extension of time to file briefs on the issues referred to the committee (Issues 11 and 12) but denied any extension of briefing time with respect to the issue dealing with the pricing of milk sold outside the marketing area (Issue No. 10). All other requests in the motions were referred by the Presiding Officer to the Secretary and were thereafter referred by the Secretary to the Assistant Administrator.

As indicated elsewhere in this decision, Issues 11 and 12 have been severed from the remaining issues and decision thereon is being deferred. Ruling on the applications to reopen the hearing and for further proceedings with respect to these issues likewise is being deferred at this time. The briefing time on these issues already has been extended without date by the Presiding Officer.

The motions for reopening and for further proceedings as to Issue No. 10 are denied insofar as they pertain to that portion of Issue No. 10 on which proposed findings and conclusions are being made at this time. As stated elsewhere herein, decision is being deferred at this time with respect to the re-

mainder of Issue No. 10 and rulings on such motions likewise are deferred insofar as they relate to the deferred portion of this issue.

Recommended marketing agreement and amendment to order The following amendment to the order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the order, as amended, and as hereby proposed to be further amended.

1. Amend § 927.6 to read as follows:

§ 927.6 *Producer.* "Producer" means any dairy farmer whose milk is delivered in cans direct from farm to a pool plant and any dairy farmer who is a participating member of a pool tank pickup unit.

2. Amend § 927.7 by adding to paragraph (a) thereof the following: "or from members of a pool plant pickup unit."

3. Amend § 927.8 by deleting the words "pursuant to § 927.18 (j) "

4. Add a new § 927.12 as follows:

§ 927.12 *Tank pickup unit.* "Tank pickup unit" means a group of farmers whose milk is picked up at the farm from a farm tank by a tank truck. The milk of the tank pickup unit shall include the milk of all of the farmers from whom milk is received from a farm tank by the tank truck receiving the milk of the group, and shall not include the milk of any farmer which is not so received. This shall not be construed to require use of the same identical truck each pickup day or to preclude the use of two or more trucks to pick up the milk of a single tank pickup unit upon determination by the market administrator that the additional truck is needed to handle the increased deliveries of the regular members of the group and not primarily the result of the addition of new farmers.

5. Add a new § 927.13 as follows:

§ 927.13 *Pool tank pickup unit.* "Pool tank pickup unit" means a tank pickup unit determined to be a pool tank pickup unit pursuant to §§ 927.28 or 927.29.

6. Amend § 927.18 (j) to read as follows:

(j) Promptly notify a handler, upon receipt of the handler's written request therefor, of his determination: as to whether one or more plants exist at a specified location, as to whether any specified item constitutes a part of the handler's plant, or as to which plant a specified item is a part in the event that the particular premises in question constitute more than one plant: *Provided,* That, if the request of the handler is for revision or affirmation of a previous determination, there is set forth in the request a statement of what the handler believes to be the changed conditions which make a new determination necessary. If a handler has been notified in writing of a determination with respect to an establishment operated by him, any revision of such determination shall not be effective prior to the date on which such handler is notified of the revised determination.

7. Add a new § 927.28 as follows:

§ 927.28 *Pool tank pickup units delivering Class I–A milk to the marketing area.* For any of the months of July through March, a tank pickup unit which has 25 percent of its milk delivered directly or through other plants to a plant or purchaser in the marketing area shall automatically be determined to be a pool tank pickup unit. For any of the months of April through June, a tank pickup unit which has 10 percent of its milk delivered directly or through other plants to a plant or purchaser in the marketing area shall automatically be determined to be a pool tank pickup unit: *Provided,* That for the months of April through June, no tank pickup unit shall be a pool tank pickup unit on the basis of this section unless at least 80 percent of the farmers in the unit for the month meet the provisions of paragraphs (a) through (c) of this section.

(a) They were producers who were delivering milk to a reserve pool plant during the preceding October, November and December,

(b) They were producers delivering milk to an automatically designated pool plant (pursuant to § 927.27) in the preceding October, November and December from which sufficient Class I–A milk was shipped to the marketing area in October through December to make it eligible to be an automatically designated pool plant in the following months of April through June, or

(c) They were producers for a tank pickup unit which delivered either directly or through other plants more than 60 percent of its milk in the preceding October, November and December to a plant or purchaser in the marketing area.

8. Add a new § 927.29 as follows:

§ 927.29 *Reserve pool tank pickup units.* Any tank pickup unit shall be determined to be a reserve pool tank pickup unit upon the finding by the market administrator that it meets each of the conditions set forth in paragraphs (a) through (d) of this section, and shall continue to be determined to be a reserve pool tank pickup unit until the first of the month following the month in which the market administrator has notified the handler operating the unit, in writing, that the tank pickup unit is no longer meeting all of the conditions set forth in paragraphs (a) through (d) of this section: *Provided,* That the determination of a reserve pool tank pickup unit shall be cancelled effective the first of any of the months of April through August upon a request of the handler made in writing to the market administrator at least 30 days prior to such date.

(a) A request has been made (1) in the month of June by the operator of the tank pickup unit for such determination to become effective on the following August 1, or (2) by the handler receiving the milk of the tank pickup unit in the month in which the unit was formed for a determination effective the first of the following month and 90 percent of the milk of the unit in the first month of operation is received from farmers who were producers in the preceding month at a reserve pool plant operated by the same handler.

(b) Ninety percent of the milk of such unit is received from farmers whose farm tanks are located in a county in the States listed in § 927.21.

(c) The milk of the farmers of a tank pickup unit is approved by a marketing area health authority for sale as fluid milk in the marketing area: *Provided,* That loss of such approval for a period not exceeding 15 consecutive days shall not be considered by the market administrator to constitute lack of such approval: *Provided further,* That for a unit already determined to be a reserve tank pickup unit, the lack of such approval in any of the months of August through March shall not be considered a failure to meet the conditions of this paragraph for such month if more than 50 percent of the milk of the unit is classified as Class I–A, Class I–B, or Class I–C.

(d) The milk received from producers on the tank pickup unit is utilized in accordance with any desirable utilization percentage established by the market administrator pursuant to § 927.24 (g)

9. Amend § 927.31 by changing the last sentence thereof to read: "The burden rests upon the handler who receives in the marketing area or at a pool plant, or distributes in the marketing area, milk, concentrated fluid milk, fluid milk products, cultured or flavored milk drinks, cream, fluid cream products, or fluid skim milk to establish the source of all of his milk and milk products, and in the absence of such proof such milk and the milk equivalent of such enumerated products shall be subject to the provisions of § 927.79."

10. Amend § 927.32 by adding the following proviso: *"Provided further,* That with respect to Class II milk the butterfat from which is on hand at the plant in the form of cream, or having left the plant in the form of cream had not been delivered to a plant or purchaser by the end of the period for establishing classification, but subsequent to the end of the period for establishing classification such cream is handled in accordance with the conditions set forth in paragraph (e) (1) of § 927.37, the handler who received the milk from producers may claim a refund by filing a report giving the facts with respect to such handling. On the basis of verification of such report, the market administrator shall make payment out of the producer settlement fund to such handler or issue credit against any balance due from such handler to the producer settlement fund in an amount equal to the difference between the Class II and Class III prices applicable for the month when the milk was received from producers."

11. Amend § 927.33 as follows:

(1) By adding a second proviso in the opening sentence as follows: *"Provided further* That the tank truck receiving the milk of a tank pickup unit shall be considered the plant at which such milk is received from dairy farmers, and the delivery of such milk by the tank truck

to a plant shall be considered as a shipment of milk to another plant."

(2) By adding the following proviso to paragraph (e) *"Provided,* That the delivery of milk to a plant outside the specified area by the tank truck which received such milk from a pool tank pickup unit shall be considered a shipment of milk more than 65 miles from the plant where received from dairy farmers."

12. Amend § 927.35 by renumbering paragraph (c) as paragraph (e) and by substituting for paragraph (b) the following:

(b) After the assignments prescribed in paragraph (a) of this section, the remaining whole milk received at a plant from producers or from pool plants and in like form from dairy farmers not producers or from non-pool plants shall be assigned pro rata to the total classification of all milk on hand at or leaving such plant as whole milk.

(c) After the assignments prescribed in paragraphs (a) and (b) of this section, the then remaining milk or cream received from producers or from pool plants and the milk or cream received from dairy farmers not producers or from non-pool plants shall be assigned pro rata to the total remaining classification of such products received in like form.

(d) After the assignment of skim milk prescribed in paragraph (a) of this section, skim milk received from non-pool plants shall be assigned to the remaining skim milk subject to the fluid skim differential.

13. Amend § 927.37 (b) to read as follows:

(b) Class I–B milk shall be all milk, except as provided in subparagraphs (3) and (5) of paragraph (e) of this section, the butterfat from which leaves the plant in the form of milk, concentrated fluid milk, fluid milk products, or of cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, and which is delivered to a plant or a purchaser outside of the State of New York and outside of Northern New Jersey, but which at no time (1) is received, other than directly from producers, at a plant in the marketing area, or (2) otherwise enters the marketing area except as an incident to its transportation and delivery to a point outside of the marketing area. *Provided,* That use aboard a ship or other carrier shall not constitute such delivery.

14. Amend § 927.37 (c) to read as follows:

(c) Class I–C milk shall be all milk, except as provided in subparagraphs (3) and (5) of paragraph (e) of this section, the butterfat from which leaves the plant in the form of milk, concentrated fluid milk, fluid milk products, or as cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, and which is delivered to a plant or a purchaser in the State of New York or Northern New Jersey, but which at no time (1) is received, other than directly from producers, at a plant in the marketing area, or (2) otherwise enters the marketing area except as an incident to its transportation and delivery to a point outside of the marketing area: *Provided,* That use aboard a ship or other carrier shall not constitute such delivery.

15. Amend the portion of § 927.42 preceding the schedule to read as follows:

§ 927.42 *Transportation differentials.* The market administrator shall determine and publicly announce a freight zone for each pool plant and for each county in which is located the farm tank of any member of a pool tank pickup unit, and he shall determine the freight zone for each plant at which milk or milk products subject to the provisions of § 927.78 is received from dairy farmers. For plants, such freight zone shall be based on the shorter of (a) the railroad mileage distances from the railroad shipping point nearest the plant to New York City railroad terminals and (b) the shortest highway mileage from the plant to Columbus Circle, New York City, as computed (without using supplements issued thereto) from Mileage Guide No. 5 issued on July 20, 1949, effective August 21, 1949, by the Household Goods Carrier's Bureau, Agent, Washington, D. C. The freight zone for any county in which on the effective date of this amendatory provision a pool plant is located shall be the freight zone for the average distance of all pool plants located in such county, using for the purpose of computation the midpoint of the zone range as the distance of each plant. In the event that the market administrator announces new zones for any of such plants, the zone for the county shall likewise be revised. For those counties in which on the effective date of this amendatory provision there is located no pool plant, the zone for the county shall be computed as if there were a pool plant located at the county seat of said county. The freight zone for plants or counties located in the marketing area shall be the 1–10 mile zone. The class prices set forth in § 927.40 and the fluid skim differential set forth in § 927.44 shall be plus or minus the amount set forth in the following schedule:

16. Amend § 927.43 by changing the second proviso thereof to read: *"Provided further* That for such milk received from producers at a plant or in a pool tank pickup unit in a freight zone farther from New York City than the 321–325 mile zone, there shall be deducted from the amount so credited the following amounts per hundredweight of milk:"

17. Amend § 927.50 as follows:

a. Add references to "§ 927.79" whereever reference is now made to "§ 927.78."

b. In the opening sentence after the words "pool plants" add the following: "or from each of his pool tank pickup units."

c. Amend paragraph (a) by changing the semi-colon to a comma and add the following: "and in the case of tank pickup units such information to be given by counties in which the farm tanks are located."

d. Amend paragraph (b) by changing the semi-colon to a comma and add the following: "or in the case of a tank pickup unit the quantity of milk delivered to each plant;" and

e. Delete from paragraph (c) the following: "such disposition to be covered by a signed statement of the plant operator if such other plant is not a pool plant."

18. Amend § 927.46 by changing the time for announcing the average of prices paid in the preceding month by Midwestern condenseries from not later than the 25th day of each month to the 5th day of each month.

19. Amend § 927.53 as follows:

a. Amend paragraph (a) by inserting after the words, "non-pool plants," the following: "or non-pool tank pickup units."

b. Amend paragraph (b) by changing the semi-colon to a comma and adding the following: "or received from non-pool tank pickup units;"

c. Amend paragraph (d) by changing the semi-colon to a comma and adding the following: "or from each of his tank pickup units; and"

20. Amend § 927.54 by adding in paragraph (d) thereof a reference to "§ 927.32" and by adding a new paragraph (e) as follows:

(e) Make inspection of buildings and their surroundings, facilities, and equipment for verification purposes and to ascertain what constitutes a plant.

21. Amend § 927.60 as follows:

a. Amend paragraph (a) by changing the semi-colon to a comma and add the following: "and from each pool tank pickup unit;"

b. Amend paragraph (c) by changing the semi-colon to a comma and add the following: "or in the case of a pool tank pickup unit make such computations for the milk received from the tank pickup unit;"

c. Amend paragraph (d) to read as follows:

(d) Deduct, in the case of each plant and each tank pickup unit zoned nearer New York City than the 201–210 mile zone, and add in the case of each plant and each tank pickup unit zoned farther from New York City than the 201–210 mile zone, the sum obtained by multiplying the milk received from producers by the applicable zone differential set forth in column B of the schedule in § 927.42.

e. Amend paragraph (f) by adding after the words, "30 cents per hundredweight at plants" the words "or from farm tanks."

f. Reletter paragraph (g) to (h) and add a new paragraph (g) as follows:

(g) With respect to milk received from producers (except those who have farm tanks in the marketing area) who are members of a pool tank pickup unit and whose farms are located in one of the counties specified in paragraph (f) of this section, or who are operating farms from which milk was delivered during

any part of the year before becoming a member of the tank pickup unit, to a plant at one of the locations specified in paragraph (f) of this section, deduct 20 cents per hundredweight.

(6) Amend paragraph (h) to read as follows:

(h) Add together the handler's net pool obligation for all plants and all pool tank pickup units at which milk was received from producers.

22. Amend § 927.61 by adding to paragraph (c) thereof "and § 927.79."

23. Amend § 927.66 as follows:

§ 927.66 *Transportation and location differentials.* The uniform prices shall be:

(a) Plus or minus the differential shown in column B of the schedule contained in § 927.42 for the zone in which the plant is located, or in the case of a tank pickup unit, the zone of the county in which the farm tank is located; and

(b) Plus the differentials, if any, applicable pursuant to § 927.80 (f) and (g) plus five cents.

24. Delete § 927.78 and substitute in lieu thereof the following:

§ 927.78 *Payments on milk received from dairy farmers at non-pool plants.* Payments shall be made by handlers to producers, through the producer settlement fund, for milk and milk products under conditions, in amounts and by the handler pursuant to paragraphs (a) through (d) of this section, *Provided,* That for any month in which the volume of Class III milk used in the computation of the uniform price is less than 15 percent of the combined volume of the Class I-A and Class II milk used in such computation, the payments set forth in this section shall not be required. *Provided further* That the term "plant" as used in this section shall also be considered to mean "tank pickup unit" wherever appropriate, and reference to the location of the plant shall also be considered to refer to the zone for the county in which the farms are located in the case of milk received on tank pickup units.

(a) Payments shall be made for milk, concentrated fluid milk, fluid milk products, cultured or flavored milk drinks, cream, fluid cream products, and skim milk, which milk or milk product meets each of the following conditions:

(1) It was derived from milk received at a non-pool plant from dairy farmers other than the plant operator.

(2) It was shipped to, received in or distributed in the marketing area, or was received at a pool plant outside the marketing area.

(3) The milk or milk equivalent of the butterfat is classified as Class I–A or Class II, or the skim milk would be subject to the fluid skim differential if it were derived from pool milk.

(b) The amounts of payment for the products set forth in paragraph (a) of this section shall be as follows:

(1) If the milk or the milk equivalent of the butterfat, or the skim milk is classified and paid for under another order issued pursuant to the act, the amount of payment on such products, except skim milk, shall be any plus amount obtained by subtracting the value of the milk or the milk equivalent of the butterfat at the class price or prices under such order from the value computed in accordance with the classification and pricing set forth in this subpart: *Provided,* That the payment shall be at the rates set forth in subparagraph (2) of this paragraph if the other order permits the deduction of such payment from the amount otherwise due for such milk pursuant to such other order. The amount of payments on skim milk shall be an amount computed pursuant to § 927.44 adjusted for the location of the plant.

(2) If the milk or milk product is derived from milk received from dairy farmers at a non-pool plant in the 421–425 mile zone, or in some other zone nearer the marketing area, the handling of which is not regulated by an order issued pursuant to the act or is regulated by another order as specified in the proviso of subparagraph (1) of this paragraph, the amount of payment, except as otherwise specified in subparagraph (4) of this paragraph, shall be the difference between its classified value at the Class I–A or the Class II price, depending upon its classification, and its value at the Class III price, such class prices to be adjusted for butterfat test and the location of the plant at which the non-pool milk was originally received from farmers: *Provided,* That for concentrated fluid milk, cream, fluid cream products, and cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent butterfat, the payment shall be computed on the milk equivalent thereof as so classified. The amount of the payment on skim milk (either as skim milk or in cultured milk drinks) shall be the amount computed pursuant to § 927.44 as similarly adjusted for location.

(3) If the milk or milk product is derived from milk received from dairy farmers at a non-pool plant farther from the marketing area than the 421–425 mile zone, the handling of which is not regulated by another order issued pursuant to the act, or is regulated by another order as specified in the proviso of subparagraph (1) of this paragraph, the amount of payments shall be the difference between the value of its milk equivalent at the Class I–A or Class II price, depending upon its classification, and the value of such milk at the Midwestern condensary price announced pursuant to § 927.46 (a) (8) such class prices to be adjusted for the location of the plant at which the non-pool milk was originally received from dairy farmers: *Provided,* That for milk, fluid milk products and cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, the payment shall be the difference between the value of such milk or milk product at the Class I–A price for milk containing 3.5 percent butterfat, adjusted for location of the plant, and the condensary price. The amount of the payment on skim milk (either as skim milk or in cultured milk drinks) shall be the amount computed pursuant to § 927.44 similarly adjusted for location.

(4) For any month in which the volume of milk subject to the butter-cheese adjustment used in the computation of the uniform price is more than 15 percent of the combined volume of the Class I–A and Class II milk used in such computation, the payment required by subparagraph (2) of this paragraph shall be increased by the value of the milk or milk equivalent at the rate of the butter-cheese adjustment at the plant where the milk was received from dairy farmers.

(5) In computing the milk equivalent value of milk or milk products as specified in this paragraph, such value shall be computed on the basis of milk containing 3.5 percent of butterfat.

(c) Payment for any milk or milk product pursuant to this section shall be made, on behalf of the handler receiving the milk from dairy farmers, by the appropriate handler as set forth in subparagraphs (1) through (3) of this paragraph: *Provided,* That if the milk is received from a handler under another order issued pursuant to the act, which order provides that the payment to the producer settlement fund may be deducted from the handler's obligation under the other order, the payment shall be made by the handler subject to the other order regardless of the provisions of subparagraphs (1) through (3) of this paragraph:

(1) By the handler first receiving the milk or milk product at a pool plant outside the marketing area.

(2) By the handler operating the plant where the milk or milk product is first received in the marketing area if the milk or milk product is not received at a pool plant outside the marketing area.

(3) By the handler operating the plant from which the milk or milk product was moved into the marketing area if such milk or milk product is neither received at a pool plant outside the marketing area nor at a plant in the marketing area.

(d) The amount due pursuant to this section shall be entered on the handler's account as a debit immediately after the filing of the report pursuant to § 927.50, or if the handler fails to file such report, such amount shall be entered on the handler's account in accordance with § 927.75.

25. Add a new § 927.79 as follows:

§ 927.79 *Payments on milk or milk products the source of which is not established.* Payments shall be made by handlers to producers through the producer settlement fund, for milk and milk products under conditions, in amount and by the handler pursuant to paragraphs (a) through (d) of this section: *Provided,* That the term 'plant' as used in this section shall also be considered to mean 'tank pickup unit' wherever appropriate, and references to the location of the plant shall also be considered to refer to the zone for the county in which the farms are located in the case of milk received on tank pickup units.

(a) Payments shall be made for milk, concentrated fluid milk, fluid milk products, cultured or flavored milk drinks, cream, fluid cream products, and skim

milk which milk or milk product meets each of the following conditions:

(1) It was derived from milk for which the farm source is not established.

(2) It was shipped to, received in or distributed in the marketing area, or was received at a pool plant.

(3) If first found at a non-pool plant, the milk or milk equivalent of the butterfat is classified as Class I–A or Class II, or the skim milk is subject to the fluid skim differential.

(b) The amounts of payment for the product set forth in paragraph (a) of this section shall be as follows:

(1) For milk, concentrated fluid milk, fluid milk products, or cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, the value of such milk, fluid milk products, cultured or flavored milk drinks or the milk equivalent of such concentrated fluid milk at the class price at the plant where first found.

(2) For cream, fluid cream products, or cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent of butterfat, the value of the milk equivalent of such product at a rate per hundredweight computed pursuant to § 927.40 (e) (1) adjusted by the differentials set forth in column C in the table in § 927.42 for the zone of the plant at which first found.

(3) For skim milk in a form subject to the fluid skim milk differential, the value at a rate per hundredweight computed as follows: Divide the amount computed pursuant to § 927.40 (e) (2) by 0.9125, add an amount computed pursuant to § 927.44 and adjust the result by the differentials set forth in column B in the table in § 927.52 for the zone of the plant where first found.

(4) For skim milk in a form not subject to the fluid skim milk differential, the value at a rate per hundredweight computed as follows: Divide the amount computed pursuant to § 927.40 (e) (2) by 0.9125.

(5) In computing the milk equivalent value of products as specified in this paragraph, such value shall be computed on the basis of milk containing 3.5 percent of butterfat.

(c) Payment for any milk or milk product pursuant to this section shall be made, on behalf of the handler receiving the milk from dairy farmers, by the appropriate handler as set forth in subparagraphs (1) through (3) of this paragraph:

(1) By the handler first receiving the milk or milk product at a pool plant outside the marketing area.

(2) By the handler operating the plant where the milk or milk product is first received in the marketing area if the milk or milk product is not received at a pool plant outside the marketing area.

(3) By the handler operating the plant from which the milk or milk product was moved into the marketing area if such milk or milk product is neither received at a pool plant outside the marketing area nor at a plant in the marketing area.

(d) The amount due pursuant to this section shall be entered on the handler's account as a debit immediately after the filing of the report pursuant to § 927.50, or if the handler fails to file such report, such amount shall be entered on the handler's account in accordance with § 927.75.

26. Amend § 927.80 by adding in the first sentence after the words "from producers at plants" the following: "or who are members of a pool tank pickup unit."

Issued at Washington, D. C., this 15th day of September 1953.

[SEAL] ROY W. LENNARTSON,
Asistant Administrator.

[F. R. Doc. 53–8081; Filed, Sept. 17, 1953; 8:52 a. m.]

[7 CFR Part 989]

HANDLING OF RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA

ESTABLISHING FREE, RESERVE, AND SURPLUS PERCENTAGES FOR 1953–54 CROP YEAR

Notice is hereby given that there is being considered a proposed rule to establish free tonnage percentages, reserve tonnage percentages, and surplus tonnage percentages, as hereinafter set forth, in connection with raisins produced from raisin variety grapes grown in California and acquired by handlers during the 1953–54 crop year. These percentages are proposed after consideration of the recommendation submitted by the Raisin Administrative Committee and other information available to the Secretary, in accordance with applicable provisions of Marketing Agreement No. 109 and Order No. 89 (7 CFR, 1952 Rev., Part 989) regulating the handling of raisins produced from raisin variety grapes grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

Consideration will be given to any data, views, or arguments pertaining thereto which are filed in triplicate with the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., and received not later than the close of business on the tenth day after the date of the publication of this notice in the FEDERAL REGISTER, except that, if said tenth day after publication should fall on a legal holiday, Saturday, or Sunday, such submission should be received by the Director not later than the close of business on the next following business day.

The proposed rule is as follows:

§ 989.207 *Free, reserve, and surplus tonnage regulation for the 1953–54 crop year* (a) The percentages of each varietal type of raisins acquired by handlers during the crop year beginning August 15, 1953 and ending August 14, 1954, which shall be free tonnage, reserve tonnage, and surplus tonnage, respectively, are as follows: (1) Natural (sun-dried) Thompson Seedless raisins: Free tonnage percentage, 61 percent; reserve tonnage percentage, 24 percent; and surplus tonnage percentage, 15 percent; (2) natural (sun-dried) Muscat raisins: Free tonnage percentage, 60 percent; reserve tonnage percentage, 40 percent;and surplus tonnage percentage, zero percent; (3) natural (sun-dried) Sultana raisins: Free tonnage percentage, 50 percent; reserve tonnage percentage, 50 percent, and surplus tonnage percentage, zero percent; (4) natural (sun-dried) Zante Currant raisins: Free tonnage percentage, 100 percent; reserve tonnage percentage, zero percent; and surplus tonnage percentage, zero percent; (5) artificially dehydrated Sultana raisins: Free tonnage percentage, 100 percent; reserve tonnage percentage, zero percent; and surplus tonnage percentage, zero percent; (6) artificially dehydrated Zante Currant raisins: Free tonnage percentage, 100 percent; reserve tonnage percentage, zero percent; and surplus tonnage percentage, zero percent; (7) Layer Muscat raisins: Free tonnage percentage, 60 percent; reserve tonnage percentage, 40 percent; and surplus tonnage percentage, zero percent; (8) Golden Bleached raisins: Free tonnage percentage, 100 percent; reserve tonnage percentage, zero percent; and surplus tonnage percentage, zero percent; (9) Sulfur Bleached raisins: Free tonnage percentage, 100 percent; reserve tonnage percentage, zero percent; and surplus tonnage percentage, zero percent; (10) Soda Dipped raisins: Free tonnage percentage, 100 percent; reserve tonnage percentage, zero percent; and surplus tonnage percentage, zero percent; and (11) Valencia raisins: Free tonnage percentage, 100 percent; reserve tonnage percentage, zero percent; and surplus tonnage percentage, zero percent.

(b) The percentages cited in paragraph (a) of this section are predicated on the following preliminary estimates of production by the Raisin Administrative Committee: Natural (sun-dried) Thompson Seedless raisins, 212,250 tons; natural (sun-dried) and Layer Muscat raisins, 10,000 tons; natural (sun-dried) Sultana raisins, 2,500 tons; natural (sun-dried) Zante Currant raisins, 3,000 tons; Golden Bleached raisins, 17,300 tons; all other varietal types of raisins, 1,000 tons; and total, all varietal types, 246,050 tons. Percentages for each varietal type of raisins would be designated in the final rule on the basis of presently available information and any additional information, including any later estimates of production, which may be available at the time of such designation. It does not appear from data currently available that average returns to California producers of 1953 crop raisins will exceed the price level specified in section 2 (1) of the act.

Issued at Washington, D. C., this 15th day of September 1953.

[SEAL] S. R. SMITH,
Director
Fruit and Vegetable Branch.

[F. R. Doc. 53–8080; Filed, Sept. 17, 1953; 8:52 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 36]

[Docket No. FDC-43 (a)]

RAW PACIFIC OYSTERS

NOTICE OF HEARING TO AMEND DEFINITIONS AND STANDARDS OF IDENTITY

In the matter of amending the definitions and standards of identity for Pacific oysters, raw Pacific oysters, shucked Pacific oysters:

Notice is hereby given that the Secretary of Health, Education, and Welfare, upon application of the Pacific Coast Oyster Growers Association, Incorporated, representing a substantial portion of the interested industry, stating reasonable grounds therefor, and in accordance with sections 401 and 701 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1046, 1055; 21 U. S. C. 341, 371) will hold a public hearing commencing at 10:00 o'clock in the morning of October 21, 1953, in Room 3724, Health, Education, and Welfare Building, 330 Independence Avenue SW., Washington, D. C., for the purpose of receiving evidence upon applicant's proposals:

1. To amend §§ 36.17 to 36.20, inclusive, of the regulations, which fixed and established definitions and standards of identity for raw Pacific oysters (21 CFR 36.17 to 36.20, inclusive) so that as amended these sections will read as follows:

§ 36.17 *Large Pacific oysters, large raw Pacific oysters, large shucked Pacific oysters; identity.* Large Pacific oysters, large raw Pacific oysters, large shucked Pacific oysters, are of the species Ostrea gigas and conform to the definitions and standards of identity prescribed for oysters by § 36.10 and are of such size that 1 gallon contains not more than 64 oysters, and the largest oyster in the container is not more than twice the weight of the smallest oyster therein.

§ 36.18 *Medium Pacific oysters, medium raw Pacific oysters, medium shucked Pacific oysters; identity.* Medium Pacific oysters, medium raw Pacific oysters, medium shucked Pacific oysters, are of the species Ostrea gigas and conform to the definition and standard of identity prescribed for oysters by § 36.10 and are of such size that 1 gallon contains more than 64 oysters and not more than 96 oysters, and the largest oyster in the container is not more than twice the weight of the smallest oyster therein.

§ 36.19 *Small Pacific oysters, small raw Pacific oysters, small shucked Pacific oysters; identity.* Small Pacific oysters, small raw Pacific oysters, small shucked Pacific oysters, are of the species Ostrea gigas and conform to the definition and standard of identity prescribed for oysters by § 36.10 and are of such size that 1 gallon contains more than 96 oysters and not more than 144 oysters, and the largest oyster in the container is not more than twice the weight of the smallest oyster therein.

§ 36.20 *Extra small Pacific oysters, extra small raw Pacific oysters, extra small shucked Pacific oysters.* Extra small Pacific oysters, extra small raw Pacific oysters, extra small shucked Pacific oysters, are of the species Ostrea gigas and conform to the definition and standard of identity prescribed for oysters by § 36.10 and are of such size that 1 gallon contains more than 144 oysters, and the largest oyster in the container is not more than twice the weight of the smallest oyster therein.

2. To revoke §§ 36.21 and 36.22 of the regulations which fixed and established definitions and standards of identity for raw Pacific oysters (21 CFR 36.21, 36.22)

At the hearing evidence will be restricted to testimony and exhibits relevant and material to such proposals. The hearing will be conducted in accordance with the rules of practice provided therefor. Mr. Leonard D. Hardy is hereby designated as presiding officer to conduct the hearing in place of the Secretary, with full authority to administer oaths and affirmations and to do all other things appropriate to the conduct of the hearing. The presiding officer is required to certify the entire record of the proceeding to the Secretary for initial decision.

The proposed amendments for consideration at the hearing are subject to adoption, rejection, or modification by the Secretary of Health, Education, and Welfare, in whole or in part, as the evidence adduced at the hearing may require.

Dated: September 14, 1953.

[SEAL] OVETA CULP HOBBY, *Secretary.*

[F. R. Doc. 53-8055; Filed, Sept. 17, 1953; 8:46 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Geological Survey

COLORADO RIVER, UTAH

POWER SITE CLASSIFICATION NO. 430

Pursuant to authority vested in me by the act of March 3, 1879 (20 Stat. 394; 43 U. S. C. 31) and by Departmental Order No. 2333 of June 10, 1947 (43 CFR 4.623; 12 F R. 4025) the following described land is hereby classified as power sites insofar as title thereto remains in the United States and subject to valid existing rights; and this classification shall have full force and effect under the provisions of sec. 24 of the act of June 10, 1920, as amended by section 211 of the act of August 26, 1935 (16 U. S. C. 818)

SALT LAKE MERIDIAN

T. 43 S., R. 3 E.,
Sec. 19, E½SE¼,
Sec. 20, S½SW¼, and SW¼SE¼,
Sec. 22, SW¼NE¼, SE¼NW¼, NE¼SW¼ and SE¼,
Sec. 23, SW¼SW¼,
Sec. 24, S½NW¼ and SW¼,
Sec. 25, S½NE¼, N½NW¼, NW¼SE¼ and S½SE¼,
Sec. 26, NE¼, N½NW¼, SW¼NW¼ and NW¼SE¼,
Sec. 27, E½NE¼, S½NW¼ and SW¼,
Sec. 28, S½N½ and S½,
Sec. 29, N½, NE¼SW¼ and SE¼,
Sec. 30, NE¼NE¼,
Sec. 34, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼ and N½SE¼,
Sec. 35, SW¼, NW¼SE¼ and S½SE¼.
T. 44 S., R. 3 E.,
Sec. 1, NW¼NW¼, S½NW¼ and E½SW¼,
Sec. 2, NE¼ and NE¼NW¼,
Sec. 12, lot 3.
T. 43 S., R. 4 E.,
Sec. 3, lots 3 and 4, S½N½ and S½,
Sec. 4, lots 1 and 2, S½NE¼ and SE¼,
Sec. 9, NE¼ and S½S½,
Sec. 10, N½ SW¼ and N½SE¼,
Sec. 11;
Sec. 12, S½,
Sec. 13, NE¼ and W½,
Sec. 14, N½NE¼ and NE¼NW¼,
Sec. 15, W½ and S½SE¼,
T. 43 S., R. 4 E.,
Sec. 16, N½,
Sec. 22, N½, E½SW¼ and SE¼,
Sec. 23, SW¼NW¼ and W½SW¼,
Sec. 24, W½NE¼, N½NW¼, SE¼SW¼, W½SE¼ and SE¼SE¼,
Sec. 25, N½NE¼ and NE¼NW¼,
Sec. 27, E½ and E½SW¼,
Sec. 29, NW¼SW¼, S½SW¼, N½SE¼ and SW¼SE¼,
Sec. 30, lot 4, E½NE¼, SE¼SW¼ and SE¼,
Sec. 31, lots 3 and 4, NE¼, E½NW¼, E½SW¼ and SE¼,
Sec. 32, NE¼ NE¼SW¼ and N½SE¼,
Sec. 33, N½NE¼, NW¼ and N½S½,
Sec. 34, NE¼, E½NW¼, N½SW¼ and SE¼,
Sec. 35, N W ¼ N W ¼, S ½ N W ¼ and N½SW¼.
T. 44 S., R. 4 E.,
Sec. 1, SW¼,
Sec. 2, NE¼SE¼ and S½SE¼,
Sec. 3, N½NE¼, SE¼NE¼ and E½SE¼,
Sec. 6, lot 1, N½NE¼, NE¼NW¼ and S½S½,
Sec. 7, lots 1, 2, 3 and 4.
T. 43 S., R. 5 E.,
Sec. 1, lots 1, 2, and 3, S½NE¼, SE¼NW¼, N½SE¼, and SE¼SE¼,
Sec. 2, SW¼NE¼, W½SW¼ and SE¼,
Sec. 3, lots 1 and 2, S½NE¼ and SE¼,
Sec. 9, SE¼NE¼ and NE¼SE¼,
Sec. 10, E½NE¼, SW¼ and E½SE¼,
Sec. 11, NE¼, N½NW¼ and N½SE¼,
Sec. 12, W½NE¼, N½NW¼ and W½SW¼;
Sec. 13, NW¼NW¼,
Sec. 14, W½W½ and SE¼SW¼,
Sec. 15;
Sec. 16, E½SE¼;
Sec. 19, NE¼NE¼, SE¼SW¼ and SE¼,
Sec. 20, W½, W½SE¼ and SE¼SE¼,

Sec. 21, SW¼SW¼ and E½SE¼,
Sec. 22, NW¼ and S½,
Sec. 23, W½NE¼, N½NW¼, N½SE¼ and SE¼SE¼,
Sec. 25, NE¼SW¼ and SE¼,
Sec. 26, NE¼NE¼, SW¼NW¼, SW¼ and SW¼SE¼,
Sec. 27, N½, SW¼, and N½SE¼,
Sec. 28, SW¼NW¼ and NW¼SW¼,
Sec. 29;
Sec. 30;
Sec. 31;
Sec. 32, W½NE¼, NW¼ and W½SW¼,
Sec. 35, W½NE¼ and NE¼NW¼,
Sec. 36, N½NE¼.

T. 44 S., R. 5 E.,
Sec. 3, W½NE¼,
Sec. 4, N½S½,
Sec. 5, NW¼ and N½S½,
Sec. 6, lots 1, 2 and 3, NE¼ and NE¼SW¼.

T. 43 S., R. 6 E.,
Sec. 1, lots 1, 2, 3, W½NE¼ and NW¼SE¼,
Sec. 5, W½NW¼,
Sec. 6, NE¼ and NE¼NW¼,
Sec. 11, NE¼NW¼,
Sec. 12, lot 1, W½NE¼, SE¼NW¼, E½ SW¼ and W½SE¼,
Sec. 13, W½NW¼ and NW¼SW¼,
Sec. 16, SW¼NE¼, SE¼SW¼, W½SE¼ and SE¼SE¼,
Sec. 21, N½NE¼, SW¼NE¼ and NE¼ SE¼,
Sec. 27, E½SW¼ and SW¼SE¼,
Sec. 34, NW¼NE¼.

T. 38 S., R. 10 E.,
Sec. 1, lot 4, SW¼NW¼ and SW¼,
Sec. 2;
Sec. 3, lots 1 and 4, SE¼NE¼, SW¼NW¼ and S½,
Sec. 4, lot 1, SE¼NE¼, S½SW¼, NE¼SE¼ and S½SE¼,
Sec. 5, SW¼NW¼ and S½,
Sec. 6, lots 1, 2, and 3, S½NE¼ and NE¼ SE¼,
Sec. 8, NE¼, NE¼NW¼ and NE¼SE¼,
Sec. 9;
Sec. 10, N½N½, SW¼NW¼, SW¼, W½ SE¼ and SE¼SE¼,
Sec. 11, NE¼NW¼ and E½SE¼,
Sec. 12, N½NW¼, SE¼NW¼, SW¼ and W½SE¼,
Sec. 13, W½NE¼, SE¼NE¼ and N½NW¼,
Sec. 14, SW¼NW¼,
Sec. 15, W½NE¼, SE¼NE¼, NW¼, and S½,
Sec. 16, NE¼, NE¼NW¼ and NE¼SE¼,
Sec. 22, NE¼ and E½NW¼,
Sec. 23;
Sec. 24, SW¼SW¼,
Sec. 25, W½NW¼ and N½SW¼,
Sec. 26, N½N½.

T. 41 S., R. 11 E.,
Sec. 5, lot 4 and SE¼NW¼,
Sec. 12, SE¼SE¼,
Sec. 14, NE¼NW¼, N½SW¼ and SE¼,
Sec. 23, E½NE¼ and NE¼SE¼,
Sec. 25, NW¼NW¼,
Sec. 26, E½E½,
Sec. 27, NW¼NE¼ and N½SW¼,
Sec. 32, SE¼SW¼,
Sec. 34, SE¼NE¼ and NW¼SE¼,
Sec. 35, N½N½ and SE¼NE¼.

T. 42 S., R. 11 E.,
Sec. 3, lots 3 and 4;
Sec. 4, lots 1, 2, 3, SE¼NW¼ and SW¼ SW¼,
Sec. 5, SW¼NE¼,
Sec. 6, lot 4;
Sec. 9, NW¼NW¼ and S½.

T. 41 S., R. 12 E.,
Sec. 21, SW¼SE¼,
Sec. 22, SE¼SW¼,
Sec. 26, SW¼SW¼,
Sec. 27, NE¼, NE¼NW¼, S½NW¼, E½ SW¼ and SE¼,
Sec. 28, N½NW¼,
Sec. 34, E½NE¼,
Sec. 35, W½NW¼.

T. 41 S., R. 13 E.,
Sec. 1, SW¼NE¼, S½NW¼ and S½.
Sec. 2, N½SW¼ and SE¼.
Sec. 5, NW¼SW¼.
Sec. 7, E½NE¼ and W½SE¼.
Sec. 12, N½ and NW¼SE¼.
Sec. 18, lots 3 and 4, E½NW¼ and NE¼ SW¼,
Sec. 19, lot 1, SW¼NE¼ and E½NW¼.

T. 40 S., R. 14 E.,
Sec. 32, SW¼SW¼.

T. 41 S., R. 14 E.,
Sec. 6, lots 2, 3, 4, SE¼NW¼ and NE¼ SW¼,
Sec. 7, lot 2.

All unsurveyed lands at altitudes of less than 3,740 feet above sea level draining into the Colorado River and San Juan River upstream from the Arizona–Utah State line, excluding lands withdrawn by Executive Orders of July 2, 1910, creating Power Site Reserves Nos. 34, 40, 42 and 122, and by orders of Power Site Classification Nos. 302, October 14, 1937, and 323, May 29, 1941, in townships which when surveyed probably, but not necessarily, will be:

SALT LAKE MERIDIAN

T. 42 S., R. 4 E.,
Tps. 42 and 44 S., R. 5 E.,
Tps. 42, 43 and 44 S., R. 6 E.,
Tps. 42 and 43 S., R. 6½ E.,
Tps. 42, 43 and 44 S., R. 7 E.,
Tps. 41, 42 and 43 S., R. 8 E.,
Tps. 39, 40, 40½, 41 and 42 S., R. 9 E.,
Tps. 37, 39, 40, 41 and 42 S., R. 10 E.,
Tps. 36, 37, 38, 38½, 39 and 40 S., R. 11 E.,
Tps. 35, 36, 37, 38, 39 and 40 S., R. 12 E.,
Tps. 33, 34, 35, 35½, 36, 37 and 40 S., R. 13 E.,
Tps. 32, 33, 34, 35, 36 and 37 S., R. 14 E.,
Tps. 33 and 34 S., R. 15 E.,
Tps. 33 and 34 S., R. 16 E.

The area described is estimated to aggregate 41,091 acres, of which 33,091 acres are surveyed lands.

Dated: September 11, 1953.

THOMAS B. NOLAN,
Acting Director.

[F. R. Doc. 53-8074; Filed, Sept. 17, 1953; 8:51 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Sup. 214) and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning period for certificates issued under the general learner regulations (§§ 522.1 to 522.14) are as indicated below: conditions provided in certificates issued under special industry regulations are as established in these regulations.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear and Other Odd Outerwear, Rainwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.168, as amended December 31, 1951, 16 F. R. 12043, and June 2, 1952; 17 F. R. 3818).

Blue Bell, Inc., Ruckersville, Va., effective 9-2-53 to 3-1-54; 25 learners for expansion purposes (dungarees).

Capitol City Manufacturing Co., 925 Huger Street, Columbia, S. C., effective 9-4-53 to 9-3-54; 10 percent of the factory production workers for normal labor turnover purposes (ladies' and children's cotton dresses).

Danny Dare Manufacturing Co., 1116 J Street, Auburn, Nebr., effective 9-3-53 to 9-2-54; 10 learners for normal labor turnover (infants' and children's wear).

Danny Dare Manufacturing Co., 893 Central, Auburn, Nebr., effective 9-3-53 to 9-2-54; 10 percent of the factory production workers or 10 learners, whichever is greater (infants' and children's wear).

Exmore Shirt Co., Inc., Exmore, Va., effective 9-3-53 to 3-2-54; 40 learners for expansion purposes (dress and sport shirts).

Jackie Sportswear Co., West Point, Miss., effective 9-4-53 to 9-3-54; 2 learners for normal labor turnover purposes. This certificate does not authorize the employment of learners at subminimum wage rates in the manufacture of ladies' skirts (sportswear).

Jasper Brassiere Co., Inc., Bankhead Farmsteads Route 5, Jasper, Ala., effective 9-2-53 to 3-1-54; 25 learners for expansion purposes (brassieres).

Legion Dress Co. Main and Paxton Streets, Centralia, Pa., effective 9-7-53 to 9-6-54; 10 percent of the factory production workers for normal labor turnover purposes (ladies' dresses).

Modelrite Dress Co., 147 Chestnut Street, Dunmore, Pa., effective 9-3-53 to 9-2-54; 10 learners for normal labor turnover purposes (women's dresses and blouses).

Rutherford Garment Co., Rutherford, Tenn., effective 9-12-53 to 9-11-54; 10 percent of the factory production workers for normal labor turnover purposes (wool and cotton jackets).

Spring Hope Manufaturing Co., Inc., Spring Hope, N. C., effective 9-2-53 to 3-1-54; 40 learners for expansion purposes (infants' and children's outerwear).

Woodbury Manufacturing Co., Plant No. 2, 30 Courtright Avenue, Wilkes-Barre, Pa., effective 9-2-53 to 3-1-54; 100 learners for expansion purposes (uniform trousers and linens).

York Manufacturing Co., Inc., Jeffs, Va., effective 8-31-53 to 2-28-54; 15 learners for expansion purposes (children's dresses).

Cigar Industry Learner Regulations (29 CFR 522.201 to 522.211, as amended October 27, 1952; 17 F. R. 8633)

Bayuk Cigars, Inc., 1106 North Montgomery Avenue, Philadelphia, Pa., effective 9-15-53 to 9-14-54; 10 percent of the total number of workers engaged in each occupation listed below; cigar machine operators, 320 hours at 65 cents per hour; packers (cigars retailing for more than 6 cents), 320 hours at 65 cents; hand and machine strippers, 160 hours at 65 cents per hour.

Bayuk Cigars, Inc., Ninth and Columbia Avenue, Philadelphia, Pa., effective 9-17-53 to 9-16-54; 10 percent of the total number of workers engaged in each occupation listed below; cigar machine operators, 320 hours at 65 cents per hour; packers (cigars retailing for more than 6 cents), 320 hours at 65 cents

per hour; packers (cigars retailing for 6 cents or less) 160 hours at 65 cents per hour; hand and machine strippers, 160 hours at 65 cents per hour.

Glove Industry Learner Regulations (29 CFR 522.220 to 522.231, as amended October 26, 1950, 15 F R. 6888; and July 13, 1953, 18 F R. 3292)

Picardy Mills, Inc., Sherwood and Reeve Streets, Dunmore, Pa., effective 8-31-53 to 8-30-54; 10 learners (knit fabric gloves).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.51, as revised November 19, 1951, 16 F. R. 10733)

Fayetteville Knitting Mills, Inc., Fayetteville, N. C., effective 9-9-53 to 9-8-54; 5 learners.

Hamilton Hosiery Finishers, Inc., 915 Morning Glory Avenue, Durham, N. C., effective 9-9-53 to 9-8-54; 5 percent of the total number of factory production workers (not including office and sales personnel).

Industrial Hosiery Mills, Inc., 424 Guilford Street, Lebanon, Pa., effective 9-5-53 to 9-4-54; 5 learners.

Mensies Hosiery Mills, Inc., 963 C Avenue SE., Hickory, N. C., effective 9-3-53 to 9-2-54; 3 learners.

Knitted Wear Industry Learner Regulations (29 CFR 522.68 to 522.79, as amended January 21, 1952; 16 F. R. 12866)

Ashland Knitting Mills, Front and Chestnut Streets, Ashland, Pa., effective 8-31-53 to 8-30-54; 5 percent of the total number of factory production workers (not including office and sales personnel) (underwear).

Shoe Industry Learner Regulations (29 CFR 522.250 to 522.260, as amended March 17, 1952; 17 F. R. 1500)

Penn Footwear Co., Line and Grove Streets, Nanticoke, Pa., effective 9-3-53 to 3-2-54; 20 learners for expansion purposes.

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.14)

Palm Beach Co., 522 Baxter Avenue NW., Knoxville, Tenn., effective 9-5-53 to 9-4-54; 7 percent of the total number of factory production workers (not including office and sales personnel). Machine operators (except cutting), hand sewers, pressers, each 480 hours at not less than 65 cents an hour for the first 240 hours and not less than 70 cents an hour for the remaining 240 hours (men's summer suits).

The following special learner certificates were issued to the school-operated industries listed below:

Lodi Academy, 1215 South Garfield, Lodi, Calif., effective 9-1-53 to 8-31-54; print shop—compositor, pressman and related skilled and semiskilled occupations; 3 learners; 350 hours at 60 cents per hour, 325 hours at 65 cents per hour, 325 hours at 70 cents per hour.

Walla Walla College, Drawer 1, College Place, Wash., effective 9-1-53 to 8-31-54; print shop—compositor, pressman, bindery worker and related skilled and semiskilled occupations; 10 learners; 350 hours at 60 cents per hour, 325 hours at 65 cents per hour, 325 hours at 70 cents per hour; bookbindery—bookbinder, bindery worker and related skilled and semiskilled occupations; 25 learners; 200 hours at 60 cents per hour, 200 hours at 65 cents per hour, 200 hours at 70 cents per hour.

The following special learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, the number of learners, the learner occupations, the length of the learning period and the learner wage rates are indicated respectively

Caribe Aircraft Radio Corp., Coamo, P. R., effective 8-20-53 to 2-19-54; 14 learners. Assembly of radio parts, 160 hours at 34 cents per hour (assembly of radio parts).

Rico Glove Corp., Bo. Maton, Cayey, P. R., effective 8-14-53 to 2-13-54; 35 learners. Machine stitching woven and knitted fabric gloves, 240 hours at 32 cents per hour, 240 hours at 40 cents per hour (machine sewn fabric gloves).

Sylvania Electric of Puerto Rico, Inc., Bayamon, P. R., effective 8-28-53 to 1-27-54; 20 learners. Supply materials, operate preheater, flash tubes and operate ager, operate bulb tabulator, operate glass cutting machines, attend and adjust stem machine, stack cathodes; each 160 hours at 34 cents per hour (manufacture of radio receiving tubes) (supplemental certificate).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 8th day of September 1953.

MILTON BROOKE,
Authorized Representative of the Administrator

[F. R. Doc. 53-8046; Filed, Sept. 17, 1952; 8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 1102, et al.]

BRANIFF AIRWAYS, INC., REOPENED SOUTHERN SERVICE TO THE WEST CASE

NOTICE OF POSTPONEMENT OF ORAL ARGUMENT

In the matter of the application of Braniff Airways, Inc., and other applicants for certificates or amendments of certificates of public convenience and necessity and a proceeding to determine whether the public convenience and necessity require the establishment of certain through air transportation service.

Notice is hereby given pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding now assigned for September 22 is hereby postponed to September 29, 1953, at 10:00 a. m., e. s. t., in Room 5042, Commerce Building, Constitution Avenue, between 14th and 15th Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., September 15, 1953.

[SEAL] FRANCIS W BROWN,
Chief Examiner

[F. R. Doc. 53-8078; Filed, Sept. 17, 1953; 8:52 a. m.]

[Docket No. 5766]

AIR AMERICA, INC.

NOTICE OF POSTPONEMENT OF ORAL ARGUMENT

In the matter of the Air America Enforcement Proceedings.

Notice is hereby given pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding now assigned for September 29, 1953 is hereby postponed to October 1, 1953, 10:00 a. m., e. s. t., in Room 5042, Commerce Biulding, Constitution Avenue, between 14th and 15th Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., September 15, 1953.

[SEAL] FRANCIS W. BROWN,
Chief Examiner

[F. R. Doc. 53-8077; Filed, Sept. 17, 1953; 8:51 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6513]

MINNESOTA POWER & LIGHT CO.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF SECURITIES

SEPTEMBER 14, 1953.

Notice is hereby given that on September 10, 1953, the Federal Power Commission issued its order adopted September 9, 1953, authorizing issuance of securities in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-8060; Filed, Sept. 17, 1953; 8:47 a. m.]

[Docket No. G-1907]

SOUTHERN NATURAL GAS CO.

NOTICE OF ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

SEPTEMBER 14, 1953.

Notice is hereby given that on September 11, 1953, the Federal Power Commission issued its order adopted September 9, 1953, amending order of May 4, 1953 (18 F R. 2773) issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary,

[F. R. Doc. 53-8061; Filed, Sept. 17, 1953; 8:47 a. m.]

[Docket Nos. G-1982, G-1983, G-1984, G-2147, G-2148]

TREASURE STATE PIPE LINE CO.

NOTICE OF FINDINGS AND ORDER

SEPTEMBER 14, 1953.

Notice is hereby given that, on September 8, 1953, the Federal Power Commission issued its order adopted September 2, 1953, in the above-entitled matters, amending the orders issued

November 19, 1952, in Docket No. G–1982 (17 F R. 10783) authorizing exportation of natural gas from the United States to Canada, and in Docket No. G–1984 (17 F. R. 10754) issuing a certificate of public convenience and necessity approving the application for authorization to export gas filed in Docket No. G–2147, by amendment of said order in Docket No. G–1982; and approving the application for Presidential Permit filed in Docket No. G–2148, by amending the Presidential Permit issued in Docket No. G–1983, signed by the President of the United States on August 15, 1953.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53–8047; Filed, Sept. 17, 1953; 8:45 a. m.]

[Docket No. G–2069]

PHILADELPHIA ELECTRIC CO.

NOTICE OF ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

SEPTEMBER 14, 1953.

Notice is hereby given that on September 10, 1953, the Federal Power Commission issued its order adopted September 9, 1953, amending order of November 21, 1952 (17 F. R. 10783) as amended March 11, 1953 (18 F. R. 1607) issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53–8062; Filed, Sept. 17, 1953; 8:47 a. m.]

[Docket No. G–2136]

PENNSYLVANIA GAS CO.

NOTICE OF ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

SEPTEMBER 14, 1953.

Notice is hereby given that, on September 8, 1953, the Federal Power Commission issued its order adopted September 2, 1953, reopening proceeding and amending order of July 6, 1953 (18 F. R. 4089) issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53–8048; Filed, Sept. 17, 1953; 8:45 a. m.]

[Project No. 1352]

PACIFIC GAS AND ELECTRIC CO.

NOTICE OF ORDER APPROVING REVISED EXHIBITS AND ADUSTING ANNUAL CHARGES

SEPTEMBER 14, 1953.

Notice is hereby given that, on September 9, 1953, the Federal Power Commission issued its order adopted September 2, 1953, approving revised exhibits and adjusting annual charges in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53–8049; Filed, Sept. 17, 1953; 8:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70–2801]

STANDARD GAS AND ELECTRIC CO. ET AL.

SUPPLEMENTAL ORDER AUTHORIZING ISSUANCE BY SUB-HOLDING COMPANY TO PARENT OF NOTE IN LIEU OF OPEN ACCOUNT INDEBTEDNESS

SEPTEMBER 14, 1953.

In the matter of Standard Gas and Electric Company, Philadelphia Company, and Duquesne Light Company; File No. 70–2801.

Standard Gas and Electric Company ("Standard") a registered holding company, having on March 31, 1952, pursuant to authorization granted by the Commission's order of March 25, 1952, loaned its registered holding company subsidiary, Philadelphia Company ("Philadelphia"), $2,500,000 on open account at the prime interest rate for short-term commercial bank loans then prevailing; and

Standard and Philadelphia having filed on August 20, 1953, a joint supplemental application-declaration, under sections 6 (a) 7, 9 and 10 of the Public Utility Holding Company, Act of 1935 ("act") proposing that, in substitution for and in consideration of the discharge and cancellation of its presently existing open account indebtedness of $2,500,000, Philadelphia issue to Standard a promissory note for $2,500,000, maturing twelve months from the date of issue, prepayable in whole or in part at any time, and bearing interest at the prime rate for short-term commercial bank loans prevailing at the date of issue; and

Notice of the filing of said supplemental application-declaration having been given in the manner provided by Rule U-23 promulgated under the act, and the Commission not having received a request for or ordered a hearing in respect of said supplemental application-declaration within the time specified in said notice, or otherwise; and

The Commission finding with respect to the proposed transactions that the applicable provisions of the act and the rules and regulations thereunder have been satisfied, that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said supplemental application-declaration be granted and permitted to become effective, forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said supplemental application-declaration be, and it hereby is, granted and permitted to become effective, forthwith, subject to the terms and conditions prescribed in Rule U-24.

It is further ordered, That this order shall become effective upon its issuance.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53–8051; Filed, Sept. 17, 1953; 8:46 a. m.]

[File No. 70–3129]

ARKANSAS LOUISIANA GAS CO.

ORDER AUTHORIZING ISSUANCE AND SALE OF FIRST MORTGAGE BONDS AND OF TEMPORARY BANK NOTES AND GRANTING EXEMPTION FROM RULE U–50

SEPTEMBER 14, 1953.

Arkansas Louisiana Gas Company ("Arkansas Louisiana") a public-utility subsidiary of Cities Service Company ("Cities"), a registered holding company, having filed a declaration with this Commission pursuant to sections 6 (a) 7 and 12 (c) of the Public Utility Holding Company Act of 1935 ("act") and Rules U–42 and U-50 promulgated thereunder, with respect to the following proposed transactions:

Arkansas Louisiana proposes to issue and sell on a firm commitment basis, $35,000,000 principal amount of its First Mortgage Bonds, 4½ percent Series due 1973 (the "Bonds") to certain institutional investors. Under the terms of the Bond Purchase Agreements payment for the Bonds will be made on a specified date in September 1953 or thereafter, at the option of each separate purchaser, at any time on or prior to June 30, 1954. In connection with the proposed issuance and sale of the bonds and in view of a prior unsuccessful attempt to sell its First Mortgage Bonds, Arkansas Louisiana requests an exemption from the competitive bidding requirements of Rule U-50.

The sale price of the Bonds is to be 100 percent of the principal amount thereof plus accrued interest from September 1, 1953, for Bonds delivered prior to March 1, 1954, and plus accrued interest from March 1, 1954, in the case of Bonds delivered thereafter and on or prior to June 30, 1954. The Bonds will be dated September 1, 1953, and will mature September 1, 1973, and will be issued and secured by an Indenture of Mortgage and Deed of Trust.

Since it is not expected that all of the purchasers will pay for their Bonds at the closing in September 1953, Arkansas Louisiana has arranged to make a commitment bank loan in an amount equal to the aggregate principal amount of Bonds not paid for at the September closing, such loan to be evidenced by a loan agreement, and by a note or notes of Arkansas Louisiana. Bonds not delivered to the respective purchasers at the September closing will, concurrently with the execution of the Bond Purchase Agreements, be issued and deposited with the Bank as security for the payment of the commitment bank loan. From time to time as Bonds sold under the Bond Purchase Agreements are paid for and delivered, the proceeds thereof will be

applied to the reduction of the amount of the commitment bank loan and a corresponding principal amount of Bonds will be turned over to the purchasers thereof.

The net proceeds from the sale of the Bonds and the bank loan will be used to prepay outstanding notes held by Guaranty Trust Company of New York in the principal amount of $24,500,000, of which $18,250,000 is presently included in current liabilities and, among other things, to provide a portion of the funds required for the Company's construction program.

The declaration having been filed on August 17, 1953, notice of said filing having been given in the form and manner required by Rule U-23 promulgated pursuant to said act and the Commission not having received a request for hearing with respect to the declaration within the time specified in said notice, or otherwise, and not having ordered a hearing thereon, and the Commission having issued a Memorandum Findings and Opinion regarding the proposed transactions;

The Commission finding that Arkansas Louisiana should be granted an exemption from the provisions of Rule U-50 and that the applicable provisions of the act are satisfied and observing no basis for adverse findings and deeming it appropriate to permit said declaration, as amended, to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act that said declaration, as amended, be, and the same hereby is, permitted to become effective, forthwith, subject to the terms and conditions contained in Rule U-24, and subject to the additional condition that jurisdiction be, and hereby is, reserved with respect to all fees, commissions and expenses incurred or to be incurred in connection with the proposed transactions.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 53-8050; Filed, Sept. 17, 1953; 8:45 a. m.]

[File No. 812-847]

NATIONAL AVIATION CORP.

NOTICE OF FILING OF APPLICATION FOR EXEMPTION OF PURCHASE OF SECURITIES FROM AFFILIATES

SEPTEMBER 16, 1953.

Notice is hereby given that National Aviation Corporation ("National") a registered closed-end, non-diversified management investment company, has filed an application pursuant to sections 10 (f) and 17 (b) of the Investment Company Act of 1940 for an order of the Commission (1) exempting from the provisions of section 10 (f) of the act, the proposed purchase by National of not to exceed $100,000 principal amount of the Twelve Year 5½ Percent Convertible Debentures ("Debentures") to be issued by Greer Hydraulics, Inc. ("Greer") at the public offering price thereof, and (2) exempting from the provisions of section 17 (a) of the act the sale to National of such debentures by Paine, Webber, Jackson & Curtis ("Paine Webber")

National states that its board of directors consists of thirteen members, one of whom is Stuart R. Reed ("Reed") who is a partner in the firm of Paine Webber. Since Reed is, by definition, an affiliated person of National and of Paine Webber, under the act, the latter is, by definition, an affiliate of an affiliate of National. Section 10 (f) of the act provides, among other things, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security (except a security of which such company is the issuer) a principal underwriter of which is a person of which a director of such registered investment company is an affiliated person, unless the Commission by order grants an exemption therefrom. Section 17 (a) of the act provides, among other things, that it shall be unlawful for an affiliated person of an affiliated person of a registered investment company, acting as principal, knowingly to sell any security to such registered investment company, with certain exceptions not pertinent here, unless the Commission by order pursuant to section 17 (b) grants an exemption from such prohibition.

Greer is engaged in the production of aircaft and airport testing, maintenance and servicing equipment. National owns 2,500 shares of common stock of Greer which is equivalent to less than 1 percent of the outstanding common stock of Greer as of June 30, 1953. National's investments are chiefly related to the aviation industry and allied industries. Therefore, it is stated that the purchase of said debentures would be consistent with applicant's investment policy and will be based upon its opinion that the debentures constitute a good investment.

Greer has filed a Registration Statement under the Securities Act of 1933 covering the proposed public offering of $1,500,000 principal amount of Twelve Year 5½ percent Convertible Debentures, due September 1, 1965. The applicant states that it is informed that the public offering of said debentures may be made on or about September 22, 1953 and in order to purchase the debentures when initially offered, the applicant requests the Commission to issue its order herein prior to such public offering date.

Notice is further given that any interested person may, not later than September 21, 1953, at 12:00 noon, submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said date the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F R. Doc. 53-8099; Filed, Sept. 17, 1953; 8:59 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 28452]

PETROLEUM DISTILLATE FUEL OIL FROM COLORADO, MONTANA, AND WYOMING TO CERTAIN STATES

APPLICATION FOR RELIEF

SEPTEMBER 15, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by W. J. Prueter, Agent, for carriers parties to schedules listed below.

Commodities involved: Petroleum distillate fuel oil, in tank-car loads.

From: Points in Montana, Wyoming, and Colorado.

To: Points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, and Paducah, Ky.

Grounds for relief: Competition with rail carriers, market competition, to maintain grouping, additional commodity.

Schedules filed containing proposed rates: C & N W Ry. tariff I. C. C. No. 11210, supp. 24, C B & Q RR. tariff I. C. C. No. 20360, supp. 5; C B & Q RR. tariff I. C. C. No. 20366, supp. 18; C B & Q RR. tariff I. C. C. No. 20362, supp. 20; UP RR. tariff I. C. C. No. 5356, supp. 1.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-8063; Filed, Sept. 17, 1953; 8:47 a. m.]

[4th Sec. Application 28453]

EXPORT RATES FROM CENTRAL AND ILLINOIS TERRITORIES TO KINGS BAY, GA.

APPLICATION FOR RELIEF

SEPTEMBER 15, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by L. C. Schuldt, Agent, for carriers parties to schedule listed below.

Involving: Export class and commodity rates.

From: Points in central and Illinois territories.

To: Kings Bay, Ga.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping.

Schedules filed containing proposed rates: L. C. Schuldt, Agent, tariff I. C. C. No. 4058, supp. 100.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-8064; Filed, Sept. 17, 1953; 8:48 a. m.]

[4th Sec. Application 28454]

PETROLEUM PRODUCTS FROM KIPLING AND WELLS, MICH., TO POINTS IN WISCONSIN AND MICHIGAN

APPLICATION FOR RELIEF

SEPTEMBER 15, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by W. J. Prueter, Agent, for carriers parties to schedules listed below.

Commodities involved: Gasoline and other petroleum products, in tank-car loads.

From: Kipling and Wells, Mich.

To: Points in Wisconsin and upper peninsula of Michigan within 300 miles of origins.

Grounds for relief: Competition with rail carriers, circuitous routes, competition with motor carriers.

Schedules filed containing proposed rates: C. & N. W Ry. tariff I. C. C. No. 11269; C. M. St. P & P. RR. tariff I. C. C. No. B-7783; M. St. P. & S. S. M. RR. tariff I. C. C. No. 7189, supp. 70.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearings. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-8065; Filed, Sept. 17, 1953; 8:48 a. m.]

[4th Sec. Application 28455]

SUGAR FROM WESTERN LOUISIANA TO HELENA, ARK., AND MEMPHIS, TENN.

APPLICATION FOR RELIEF

SEPTEMBER 15, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by W. P. Emerson, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Sugar, beet or cane, carloads.

From: Points in Louisiana.

To: Helena, Ark., and Memphis, Tenn.

Grounds for relief: Competition with rail carriers, market competition, to maintain grouping.

Schedules filed containing proposed rates: W P Emerson, Jr., Agent, tariff I. C. C. No. 380, supp. 184.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-8066; Filed, Sept. 17, 1953; 8:48 a. m.]

[4th Sec. Application 28456]

PULPBOARD OR FIBREBOARD FROM BOGALUSA, LA., TO HOUSTON, TEX.

APPLICATION FOR RELIEF

SEPTEMBER 15, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F. C. Kratzmeir, Agent, for Gulf, Mobile and Ohio Railroad Company and other carriers.

Commodities involved: Pulpboard or fibreboard, carloads.

From: Bogalusa, La.

To: Houston, Tex.

Grounds for relief: Competition with rail carriers, circuitous routes, competition with motor carriers.

Schedules filed containing proposed rates; F. C. Kratzmeir, Agent, tariff I. C. C. No. 4063, supp. 18.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-8067; Filed, Sept. 17, 1953; 8:48 a. m.]

[4th Sec. Application 28457]

MURIATIC ACID BETWEEN POINTS IN THE SOUTHWEST; EXCEPTIONS TO UNIFORM CLASSIFICATION RATING

APPLICATION FOR RELIEF

SEPTEMBER 15, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Muriatic (hydrochloric) acid, in tank-car loads, subject to class 22.5 exceptions to the uniform freight classification rating.

Between: Points in Arkansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas, including Memphis, Tenn., Natchez and Vicksburg, Miss.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping, operation through higher-rated territory, to maintain higher rates at intermediate points east of the Mississippi River on basis of old docket 13535 class rates.

Schedules filed containing proposed rates: F C. Kratzmeir, Agent, tariff I. C. C. No. 3997, supp. 18.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-8068; Filed, Sept. 17, 1953; 8:48 a. m.]

[4th Sec. Application 28458]

MOTOR-RAIL RATES BETWEEN PROVIDENCE, R. I., HARLEM RIVER, N. Y., AND EDGEWATER AND ELIZABETH, N. J., SUBSTITUTED SERVICE

APPLICATION FOR RELIEF

SEPTEMBER 15, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: The New York, New Haven and Hartford Railroad Company and B & E Transportation Co., Inc.

Commodities involved: Semi-trailers, loaded or empty, on flat cars.

Between: Providence, R. I., on the one hand, and Harlem River, N. Y., Edgewater and Elizabeth, N. J., on the other.

Grounds for relief: Competition with motor carriers.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-8069; Filed, Sept. 17, 1953; 8:49 a. m.]